H.R. 3004—THE VETERANS AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS ACT OF 1989

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMPENSATION, PENSION AND INSURANCE

OF THE

COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

MAY 2, 1990

Printed for the use of the Committee on Veterans' Affairs

Serial No. 101-48

U.S. GOVERNMENT PRINTING OFFICE
33-475 ⇆ WASHINGTON : 1990

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

H761-9

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H.R. 3004—THE VETERANS AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS ACT OF 1989

WEDNESDAY, MAY 2, 1990

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:33 a.m., in room 334, Cannon House Office Building, Hon. Doug Applegate (chairman of the subcommittee) presiding.

Present: Representatives Applegate, Evans, Penny, Jones, Geren, McEwen, and Bilirakis.

Also Present: Representatives Montgomery (ex officio), Stump (ex officio), Long and Rowland of Connecticut.

OPENING STATEMENT OF CHAIRMAN APPLEGATE

Mr. APPLEGATE. Good morning, ladies and gentlemen. We are here this morning on this very important issue to receive testimony from the Department of Veterans Affairs, the major veterans service organizations, and other interested parties on a bill that was introduced by the Honorable Lane Evans of Illinois, who, of course, is a member of this subcommittee. I want to commend Mr. Evans for his very hard and diligent work in this area. He has pursued this for several years and I think he needs to be commended.

We had previously received a study about Agent Orange, which I guess ended up as a study of the incidence of Agent Orange by the Centers for Disease Control, and we have that information before us in the event we need that. Of course, just yesterday the Agent Orange task force, which contrasts that CDC study, their report was released just yesterday. We do have a copy of that on our desks.

Mr. Evans' bill, H.R. 3004, is a comprehensive bill that would, among other things, provide for statutory presumptions of service connection for certain diseases suffered by Vietnam veterans, including non-Hodgkin's lymphoma, soft tissue sarcoma, melanoma and basal cell carcinoma, and chloracne. The bill would also provide for a process by which the Secretary of Veterans Affairs could, by regulation, include additional diseases for which presumptions of service connection would be required based on the findings of independent contract organizations. These organizations would conduct independent literature reviews of pertinent studies relating to

Agent Orange and submit their findings and recommendations to the Secretary.

The bill would also require the Secretary to establish and maintain a system for collecting and storing samples of blood and tissue of Vietnam veterans, expand the Secretary's outreach responsibilities regarding Agent Orange issues, and extend health care eligibility for Vietnam veterans suffering from diseases attributed to exposure to Agent Orange to the end of calendar year 2000.

We have looked at the testimony to be presented today and we look forward to hearing from each of the witnesses.

Before we get to you, Martin, I do want to recognize my good friend and vice chairman, the Honorable Bob McEwen from the State of Ohio, for some remarks.

Mr. MCEWEN. Thank you, Mr. Chairman.

I just want to associate myself with your remarks and congratulate our colleague from Illinois for his dedication and commitment to this effort. I thank our colleague for testifying, and also acknowledge the return of the ranking Member of the full Committee who is here today, whose absence was duly noted by all of us. We missed him and we're glad that he is with us today. I look forward to the testimony of our colleague as well as the other witnesses today.

[The prepared statement of Hon. Bob McEwen follows:]

OPENING STATEMENT OF HON. BOB MCEWEN

Thank you, Mr. Chairman.

I wish to commend you for calling this morning's hearing, and I want to thank our witnesses for turning out to assist this subcommittee in adding to its understanding of the whole issue of dioxin exposure, and its possible impact on the health of our service personnel.

I think it is especially useful that today's hearing comes so soon after a very enlightening hearing on this subject on April 4.

As we weigh the legislation before us today, we should do so with an open mind as befits serious scientific inquiry. Our veterans's compensation programs must always be based on the fullest possible knowledge and evidence, and I hope this hearing will add to our knowledge.

I join the chairman in his eagerness to hear our assembled witnesses.

Thank you.

Mr. APPLEGATE. Thank you very much, Bob.

We certainly feel very privileged to have the Chairman of the full Committee sitting in with us this morning, one who is obviously very concerned about this issue. It is always good to have him, our great Chairman, Sonny Montgomery.

Mr. MONTGOMERY. Thank you, Mr. Chairman. I do appreciate being here this morning. I look forward to the testimony and appreciate you giving me the opportunity to be a part of this hearing.

Mr. APPLEGATE. Thank you, Sonny.

We also have Mr. Stump, who is the ranking member of the full Committee. Bob, is there anything you would care to say?

Mr. STUMP. No, Mr. Chairman. Thank you. I'm just looking forward to hearing the testimony of the witnesses.

Mr. APPLEGATE. Very good. Thank you.

Before getting to Mr. Lancaster—and I know Martin has an important hearing that he wants to get to—but first I want to recognize the sponsor of the bill, Lane Evans.

Mr. EVANS. Thank you, Mr. Chairman. I appreciate the opportunity to have a hearing on this important legislation. I also appreciate the Chairman of the full Committee being here and so many other members, particularly the ranking Republican member for making the effort, when I know they have many other hearings.

I have an opening statement that I would like included in the record in its entirety.

Mr. APPLEGATE. Without objection.

Mr. EVANS. I would also like to thank the committee staff, Tim Sechrist and John Brizzi, for being so open and flexible in terms of setting up the hearing. They have been very helpful in making sure we get a whole array of witnesses. It will be a long schedule today and I appreciate your willingness to hold that kind of lengthy hearing.

[The statement of Hon. Lane Evans appears on p. 89.]

Mr. APPLEGATE. Thank you very much, Lane.

Before hearing from our first witness, let me state that we do have a 5-minute rule, although we sometimes are a little bit flexible with the Members.

I want to recognize the first witness, a friend and colleague of ours, Martin Lancaster of North Carolina. He is, indeed, a friend of the committee and of our Nation's veterans. Martin, thank you for being before the committee.

STATEMENT OF HON. MARTIN LANCASTER, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NORTH CAROLINA

Mr. LANCASTER. Thank you, Mr. Chairman. I do have a prepared statement which I would request unanimous consent to submit for the record. I will be much briefer than that.

Mr. APPLEGATE. Without objection.

Mr. LANCASTER. I do sincerely appreciate your convening this hearing and the presence of the Chairman of the full Committee, Mr. Montgomery, at this important hearing.

As you know, I co-Chair with Mr. Evans the Vietnam-Era Veterans in Congress, and it is in that capacity that I join with him today in testifying on H.R. 3004.

I do applaud the action of Secretary Derwinski earlier this year to recognize non-Hodgkin's lymphoma as a disease which will be compensable upon a showing of exposure to Agent Orange, and I believe that yesterday's Agent Orange Scientific Task Force will provide additional scientific evidence that he may be able to administratively include other diseases in his recognition.

However, be that as it may, I still think that this legislation is important as we recognize that Agent Orange exposure has resulted in diseases and illnesses which should be compensible.

I had invited a constituent of mine, Mr. Gilbert Naquin of Dunn, NC to join me here today at the table to speak to his present situation and the constant struggle he has been through in trying to gain benefits for Agent Orange exposure during his two tours with the U.S. Army in Vietnam.

Mr. Naquin served as a senior maintenance supervisor on helicopters. Often he was dropped into the jungle to repair disabled aircraft and make them operational. He told me in a conversation

yesterday on the telephone that some days he would return to his "hooch" and would literally be able to wring the Agent Orange or dioxin out of his socks.

Mr. Naquin is now unable to be here because he is totally bedridden. He suffers from bone cancer, has had cancer of the prostate, has a condition known as "dumping syndrome", one of the illnesses that was yesterday identified as having a direct correlation with Agent Orange, and many other medical problems.

Before going to Vietnam in 1967, he was a healthy man. Since his return from Vietnam, he has undergone 26 operations. His wife must now feed and bathe him and assist him with all of his daily functions. She herself has rheumatoid arthritis, and they have a son who had a malignant tumor.

Mr. Naquin, oddly enough, is more fortunate than many of our Vietnam veteran brothers, as far as compensation is concerned, because he has received an award as a result of the Agent Orange lawsuit and does receive compensation from the VA. But his ordeal has not been easy. He is still attempting to receive aid and attendance benefits from the VA, which has been denied. His battle through the years with the Agent Orange lawsuit and with the Department of Veterans Affairs has been extremely frustrating.

But he is just one soldier. There are thousand of others whose diseases have not been recognized and who have not yet received any compensation. It is embarrassing to veterans to have to beg their Government for benefits for which they feel they are rightly entitled.

I do appreciate the opportunity you have afforded me to appear before you today and to submit my statement and this brief oral presentation. I do, however, believe we will not do our veterans of the Vietnam conflict real justice until we recognize that exposure to Agent Orange does, in fact, lead to certain illnesses and diseases for which compensation should be presumed.

Thank you for allowing me to testify. I will be happy to yield to questions if there are any.

[The prepared statement of Hon. Martin Lancaster appears at p. 91.]

Mr. APPLEGATE. Thank you very much, Martin, for your very fine statement in support of the legislation.

Before I proceed, I would like to say, too, that Senator Paul Simon, who wanted to appear before the committee today, cannot be here. But he has sent a statement and, without objection, we will enter that into the record.

[The statement of Hon. Paul Simon appears at p. 94.]

Mr. APPLEGATE. Mr. McEwen.

Mr. MCEWEN. Thank you very much, Martin, for your testimony. We have had similar experiences with constituents, and your willingness to show up here today is helpful in our effort. Thank you.

Mr. APPLEGATE. Mr. Chairman, do you have anything you would like to add?

Mr. MONTGOMERY. No comments. I would just like to welcome our witness.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman. I just want to salute my colleague and co-Chair of the VVIC, the Vietnam-Era Veterans in

Congress. I know his commitment is not only, one, because he is a Vietnam-era veteran himself, but because of the plight of several of his constituents.

I think there has been some misperception about the private lawsuit. Do you know how much this individual, who has been rather severely disabled, will receive totally from the private lawsuit?

Mr. LANCASTER. His first award was about $3,000. He appealed that and that has been increased now. I believe he will ultimately receive about $15,000.

Mr. EVANS. I thank the gentleman for testifying so well today.

Mr. APPLEGATE. Thank you.

Mr. Stump, do you have anything further you would like to add?

Mr. STUMP. No, Mr. Chairman.

Mr. APPLEGATE. Okay. Mr. Jones.

Mr. JONES. No.

Mr. APPLEGATE. Mr. Bilirakis.

Mr. BILIRAKIS. No, Mr. Chairman, I would just thank Mr. Lancaster, our colleague, and ask unanimous consent that my very short opening statement be made a part of the record.

Mr. APPLEGATE. Without objection.

[The prepared statement of Hon. Michael Bilirakis appears at p. 96.]

Mr. APPLEGATE. Mr. Geren.

Mr. GEREN. No questions, Mr. Chairman.

Mr. APPLEGATE. Okay. Mr. Penny.

Mr. PENNY. No, Mr. Chairman.

Mr. APPLEGATE. Ms. Long.

Ms. LONG. No questions, Mr. Chairman.

Mr. APPLEGATE. Martin, thank you very much for appearing before the committee.

Mr. LANCASTER. Thank you.

Mr. APPLEGATE. Our next witness was to be Senator Daschle. Tom is on his way. But I think, in the meantime, what we will do is just proceed with Mr. Principi. Depending on Senator Daschle's time constraints, we may interrupt and put him in there. Tony, if you want to bring your VA group up, we will start with you.

We have with us the Department of Veterans Affairs. Tony Principi is the Deputy Secretary, and he is accompanied by Dr. Hobson, Director of the Office of Environmental Medicine, and Mr. Gary Hickman, Director of Compensation and Pension Services. Also, we have General Counsel Raul Carroll. I'm sorry, I didn't have your name on the list, Raul.

Tony, you can proceed.

STATEMENT OF ANTHONY J. PRINCIPI, DEPUTY SECRETARY, DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY LAWRENCE B. HOBSON, M.D., DIRECTOR, OFFICE OF ENVIRONMENTAL MEDICINE; GARY HICKMAN, DIRECTOR, COMPENSATION AND PENSION SERVICE; AND RAUL CARROLL, OFFICE OF GENERAL COUNSEL

Mr. PRINCIPI. Thank you, Mr. Chairman.

Mr. Chairman and members of the subcommittee, I am pleased to be here today to discuss H.R. 3004, the "Veterans Agent Orange

Exposure and Vietnam Service Benefits Act of 1989." I would like to give a brief overview of VA's position on this bill, and I ask that my more detailed statement be placed in the record as if read.

Mr. APPLEGATE. Without objection.

Mr. PRINCIPI. This bill, Mr. Chairman, has two key features. First, it would establish a presumption of service connection between service in Vietnam and four diseases: non-Hodgkin's lymphoma, soft tissue sarcoma, and melanoma and basal cell carcinoma. Secondly, it would establish a mechanism wholly separate from the VA to evaluate evidence and make recommendations concerning the association, if any, between exposure to herbicides used in Vietnam and diseases.

The proponents of this bill tell us that the time for further study is over and that the time for action is now. The views of these proponents are very important to the Secretary, me, and to the entire VA. The Vietnam-Era Veterans in Congress, well represented on this subcommittee, have done a remarkable job in advancing the interests of the Vietnam veteran and are strongly in favor of this bill. Many thoughtful advocates of Vietnam veterans, including the Vietnam Veterans of America and the American Legion, strongly support this bill. Most important, many Vietnam veterans who are sick, and many survivors of Vietnam veterans, believe that exposure to Agent Orange is the reason for their pain. Those individuals, I'm sure, would support this bill as well.

Believe me, Mr. Chairman, members of this committee, the VA is mindful of this support, and yet we ask that you wait, that this bill be held in abeyance until we have had the opportunity to complete our rulemaking process.

Secretary Derwinski and I truly believe that this is a reasonable and responsible position, for a very good reason. The rules at the VA have changed. The Secretary has taken some very bold and unprecedented steps to resolve this painful issue. When a Federal judge in California invalidated a portion of VA's Agent Orange regulations, the Secretary did not choose to litigate the matter for years, irrespective of the merits of the case. He chose simply not to seek appeal.

When our Veterans Advisory Committee on Environmental Hazards told him that it could not conclude that there was a significant statistical association between dioxin exposure and NHL, it would have been absolutely proper for the Secretary to issue a regulation to that effect. He did not. He said he would wait for CDC's Selected Cancers Study so that he could make the most informed decision.

When CDC published its study and concluded that Vietnam veterans were at a significant risk for NHL based on service in Vietnam—the very same day that study was released—the Secretary announced that he would propose regulations that would establish service connection for any Vietnam veteran who suffered from NHL and that the benefits would be applied retroactively. When a vacancy occurred on the Advisory Committee, the Secretary chose a man with possibly the most unique view on the effects of Agent Orange, Admiral Elmo Zumwalt.

These are not the actions, Mr. Chairman, of a Secretary or a Department that will suffer bungled studies, or that has no compassion for the Vietnam veteran or any veteran.

Under Secretary Derwinski's leadership, the VA remains committed to the search for answers in this area. We know that there are suggestive studies which raise questions with respect to NHL and STS. We know that the Ranch Hand study raises questions about melanoma and basal cell carcinoma. Indeed, 2 weeks from today the Veterans Advisory Committee on Environmental Hazards, the advisory committee whose work was ratified in that same court decision which invalidated a portion of our regulations, will be meeting to consider both the latest report from CDC as well as numerous studies concerning the relationship between exposure to dioxin and disease, and at the same time we will receive a report from Admiral Zumwalt covering the same studies.

This is part of a process, Mr. Chairman, which involves a total makeover of VA's Agent Orange regulations. We are in the final stretch. We plan to issue final regulations governing dioxin exposure claims by October of this year. We have, we believe, more than demonstrated our good faith. We have received guidance from the Federal bench as to the proper standards for evaluation of evidence. We incorporated those standards into our regulations in an open public proceeding. Our advisory committee meetings are not only open to the public, but we solicit public comment for those meetings. We believe, Mr. Chairman, that some of the world's leading experts in this area on our advisory committee should be given a chance to complete their work by applying those new standards.

This is not to say, Mr. Chairman, that VA is opposed to any assistance in its work. Should you conclude that our process would be lent credibility by our consulting with outside experts, such as the National Academy of Sciences, we would be pleased to do so, if that kind of consultation would not unduly delay our progress.

We would not object to an expansion of the authorized size of the advisory committee to permit additional viewpoints to be represented on that important committee, and we would not object to an independent review of our conclusions after the process now underway is completed by any entity which the Congress believes would lend credibility to our determination.

Mr. Chairman, this is an area of deeply-held and, unfortunately, divisive beliefs. We believe that Secretary Derwinski has demonstrated VA's good faith since the moment he took office. That is why, even when thoughtful friends of veterans are saying that the time for study is over, we believe that it is reasonable and responsible to ask for the time to complete this important work. That is why, with great respect, we ask that H.R. 3004 not be acted upon until we have had that opportunity to complete our work.

I would be pleased, Mr. Chairman, to respond to any questions you or your colleagues may have. Thank you.

[The prepared statement of Anthony Principi appears at p. 97.]

Mr. APPLEGATE. Thank you very much, Tony. I appreciate your statement.

A question I was going to ask you have answered. You said you figured the rulemaking would be completed by October 1 of this year, I guess?

Mr. PRINCIPI. That's correct, sir.

Mr. APPLEGATE. You had mentioned, too, about the advisory committee reviewing the CDC study and other similar studies.

Would you also be including in your review the latest one that's out, the Agent Orange Task Force?

Mr. PRINCIPI. Yes, we certainly will. We have not received a copy of the study officially. I'm not sure if we actually have a copy of it. We certainly will have it presented to the advisory committee when they convene on May 16. They will be considering a hundred studies which have been broken down by various members of the committee for analysis and review.

Mr. APPLEGATE. We can provide any of that for you if you desire.

Mr. PRINCIPI. Yes, please, sir.

Mr. APPLEGATE. Thanks again.

Mr. Chairman.

Mr. MONTGOMERY. Thank you, Doug. I want to thank Tony Principi and the other members on the witness panel this morning.

What did you say Admiral Zumwalt would be doing?

Mr. PRINCIPI. Admiral Zumwalt has been appointed as a member of the Advisory Committee on Environmental Hazards, so he will actually sit on that committee and be a part of the recommendations to the Secretary. But before his appointment, Secretary Derwinski asked Admiral Zumwalt to serve as a special advisor to him on this troubling issue. Admiral Zumwalt is in the process of preparing a report with regard to his views of those diseases which should be service-connected. That report will be forthcoming.

Mr. MONTGOMERY. I have great respect for Admiral Zumwalt. I just didn't know exactly what position or responsibility he had.

Explain to me a little further about the opposition to this legislation. You're waiting on other findings, and those findings will come out in October; is that what you said?

Mr. PRINCIPI. That's correct, sir.

Our opposition to the bill is that we believe it's—not premature—but, rather, that we have embarked on a new process, a process established by Congress. We are carefully and thoughtfully reviewing the many studies which suggest a relationship between exposure to dioxin and the onset of certain diseases. We're going to present those studies to the advisory committee, Admiral Zumwalt, and then we will propose rules based upon the recommendations we receive.

Mr. MONTGOMERY. I assume you have the authority to declare a certain type of disease as detrimental to Vietnam-era veterans or any veteran, is that correct? That's what you did on non-Hodgkin's lymphoma.

Mr. PRINCIPI. That's correct. That's what we did on non-Hodgkin's lymphoma.

Mr. MONTGOMERY. I guess what I'm saying, Mr. Chairman, is there has been some feeling of the Chairman, and maybe other Members of Congress and this committee, that are opposed to Agent Orange but that, in effect, we might be overstepping our bounds. I would like for the record to show that if there's a legitimate claim and scientific evidence that Agent Orange does cause these problems, then certainly we want to be sure these individuals are compensated for it. But, if we don't have the proper evidence,

we just don't have the money to go out there and pay claims where we have no type of evidence.

I would hope that on this study that it would be referred to OTA, the Office of Technology Assessment—that's an arm of the Congress—and let them take a look at it. I don't know whether you plan on doing that or not, but I do think that has merit to it.

My problem, as Chairman, is that we don't get enough money to run our health care facilities. I want to be sure that, when we pay these claims, that the evidence is there and that it's deserving.

Mr. APPLEGATE. Thank you, Mr. Chairman.

Mr. Stump.

Mr. STUMP. I have no questions, Mr. Chairman.

Mr. APPLEGATE. Okay. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

First, Tony, let me start out by thanking you and the Secretary. I think there is a new attitude at the VA. We are pleased it is not only on the issues that confront Vietnam veterans but really all vewterans. The Secretary's efforts, particularly in awarding compensation for NHL, his inclusion of Admiral Zumwalt on the advisory committee, I think are good things and are sending a good message. But I do have some concerns about that whole process that you have outlined in your opening remarks and I would like to ask you a few questions on that.

Mr. PRINCIPI. Yes, sir.

Mr. EVANS. You indicated that the advisory committee will soon be meeting to review the CDC's selected cancer study and numerous other studies. But isn't it true that the recent history of the advisory committee meetings suggests that the DVA is content to look at only one disease at a particular meeting?

Mr. PRINCIPI. I will defer to Dr. Hobson.

Dr. HOBSON. That is not correct. We——

Mr. EVANS. Let me ask you, then, wasn't it true that the last meeting of the advisory committee reviewed only the science relevant to NHL and its recommendation was not to provide compensation?

Dr. HOBSON. That is correct. But that was the one meeting in which there has been consideration of only one disease, to the best of my knowledge.

Mr. EVANS. When was that last meeting?

Dr. HOBSON. I can't give you the exact date, but I believe it was about October or November.

Mr. EVANS. Was it last May?

Dr. HOBSON. I think it was after that—it was later than May, I believe.

Mr. EVANS. Does anyone know when the last meeting was?

Mr. HICKMAN. It was in November of last year, sir.

Mr. EVANS. November of last year. Okay. I'm sorry. I guess that is correct.

That is the only meeting, though, that the advisory committee has held since last May's decision not to appeal the court case?

Mr. HICKMAN. That's correct. We were waiting for the final rules of the finding of the significance of statistical association, and that took place last October. Shortly thereafter the committee had its first meeting.

Mr. EVANS. Well, assuming that this process will be completed some time, as I think you indicated, late this year, in October, aren't you really asking the Congress to drop this issue all together for the balance of the 101st Congress, in that we are targeted to adjourn roughly the middle part of October?

Mr. PRINCIPI. Well, we believe we're thoughtfully complying with the direction that the Congress established in regard to the advisory committee. We believe we're on a good approach. If that means deferring until the 101st Congress adjourns, yes, I guess that's what we're asking, sir.

Mr. EVANS. I think that's our concern, that we have been trying to hold hearings and trying to get things going, and we appreciate your efforts. But basically, I view this as if you're asking us to hold the entire bill in abeyance until you write rules for NHL, and, in effect, you're asking us also to ignore every other provision of the bill other than that NHL provision. That seems to me a big request, in my opinion, for this committee to wait that long and only get rulemaking on one provision.

This bill goes beyond just NHL, and I think our concern is that if we wait through this long rulemaking process, we still will be asking veterans to hold their claims in abeyance. Their concerns have been those that we've been trying to address since I've been a Member of Congress, and people like Senator Daschle, then Congressman Daschle on this committee, since I think the time he's been in Congress.

I guess my point is that the Vietnam veterans of this country have waited quite a long time. I know they appreciate your efforts, but I just don't know if we can wait that much longer for all these different issues to be resolved through this lengthy rulemaking process.

Mr. PRINCIPI. I understand. It's a very complex process and we're moving as diligently as we can, Mr. Evans. We will continue to do so. We will look at all those diseases and we will look at your additional study that was released yesterday. We will proceed as expeditiously as we can. Believe me, we're not trying to delay this.

Those people were in the line of duty, in their performance of duty, and the Secretary and I feel very strongly about it. We are going to do everything we can to ensure that they receive the utmost consideration from this Department.

I appreciate your concerns, but I can assure you that we're doing everything we can to expedite the process.

Mr. EVANS. Again, let me congratulate you for what I think is a good faith effort. I think there is a change in attitude right from the top on down. I mean, that is one of the reasons we wanted a Secretary of Veterans Affairs to be someone that was going to use their Cabinet-level strength to help us with this kind of legislation.

I think you are proceeding on a good faith basis, but I think the needs of veterans of this country, particularly those suffering from Agent Orange, can't wait. That's why I think we have to move ahead with the legislation.

Thank you.

Mr. APPLEGATE. Thank you very much, Lane.

I'm sorry, but in my exuberance to get over to Mr. Evans, I forgot my outstanding and tall, good-looking vice chairman, Mr. McEwen.

Mr. MCEWEN. You can't make up for it now, Mr. Chairman.

[Laughter.]

When the court decision came out, the Department chose not to appeal the decision. Can you elaborate on that for me?

Mr. PRINCIPI. Certainly, Mr. McEwen.

The Secretary decided that, regardless of the merits of VA's case, a cloud had been cast over our regulations and that veterans and their families deserved assurances that our rules were created in a fair and open process. The Secretary committed to embark on a rulemaking process that would be beyond reproach, one which he believed would better serve veterans, rather than to involve veterans in protracted litigation. I believe that was the substance and the reasons for his not appealing the decision.

Mr. MCEWEN. Did you receive any reaction from the veterans community when that decision was made?

Mr. PRINCIPI. Yes. It was a decision that was strongly supported by the veterans community in this country. They applauded the Secretary's decision and it was well-received.

Mr. MCEWEN. Mr. Principi, as Deputy Secretary, can you give us a little background on your service in our Nation's armed forces?

Mr. PRINCIPI. Yes, sir. I am a 1967 graduate of the U.S. Naval Academy. I served on destroyers, volunteered to serve in Vietnam, served on the river patrol force along the Cambodian border during which time I became involved in a special operation along the Cambodian border in 1970. I returned from Vietnam and was on an admiral's staff. The Navy then sent me to law school and I received my law degree through the Navy. I then served in the Judge Advocate General's Corps for 5 years as a pay back for my legal training.

Mr. MCEWEN. Thank you. I appreciated very much your testimony this morning. It has been helpful.

As the Congressman from Illinois mentioned, the attitude of the Department on this issue is a result of the Secretary and the Deputy Secretary and others. I think it is very helpful to our cause.

Mr. PRINCIPI. Thank you, Mr. McEwen.

Mr. APPLEGATE. Thank you very much, Mr. McEwen.

Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman.

Mr. Principi, we have been talking about the rulemaking process. I wonder if you could explain a little more fully about what is involved in setting up that process.

Mr. PRINCIPI. Yes, Mr. Jones. Let me defer to Mr. Hickman, who is the head of our Compensation and Pension Service, who actually administers the rulemaking process. I think he could give you a more thorough response.

Mr. HICKMAN. Mr. Jones, we talked earlier about the fact that when the Environmental Hazards Committee provides us with some information, we will take that information and propose a regulation. For example, if we were going to provide a presumption for a disability relating to Agent Orange, we would provide for

public comment in the Federal Register to allow everyone to provide their views. That only takes a 30-day period.

Subsequent to that, we will take their views and formulate a final regulation and print that in the Federal Register as a new rule. So it normally takes a period of several months to allow the public and others to comment on a proposed rule before it will become final.

Mr. JONES. Thank you.

In the statement here there are some estimates of the cost of these benefits on page 8. It runs through 1995. I wonder if you have estimates of projected costs beyond 1995, say the year 2000 or 2010. You don't have that here, but——

Mr. PRINCIPI. We do not, sir. We could provide it for the record. I don't have it.

Mr. JONES. I think it would be helpful because, you know, we realize that we're in this for the long term. That would be helpful.

(Subsequently, the Department of Veterans Affairs furnished the following information:)

Shown below is the projected caseload and additional cost of H.R. 3004 to the year 2000.

Fiscal year	Cases	Cost (millions)
1996	5,980	$22.1
1997	6,120	22.6
1998	6,270	23.2
1999	6,320	23.4
2000	6,570	24.3
		$115.6

Mr. JONES. I wonder, too, if it should become necessary to provide this compensation, how many additional FTEE employees would be necessary to accomplish this.

Mr. HICKMAN. We do not feel it would require any additional FTEE to handle this.

Mr. JONES. Good. I appreciate it. Thank you very much.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Jones.

Mr. Bilirakis.

Mr. BILIRAKIS. Thank you, Mr. Chairman.

Mr. Secretary, it's always great to see you. I certainly would echo much of Mr. Evans' remarks in terms of objectivity and openmindedness on the part of our Department of Veterans Affairs.

I guess my problem lies in this business of the causal connection. That, of course, is the bottom line problem. We understand the VA has agreed there is an NHL connection, and that is based strictly on statistics. If the statistics had been comparable regarding the other diseases checked, then the VA would be agreeing there is a presumption of causability regarding those; isn't that correct?

Mr. PRINCIPI. That is correct, sir.

Mr. BILIRAKIS. So we're agreeing that the dioxin, the Agent Orange, is harmful, and it was harmful insofar as a certain group

of veterans is concerned who acquired NHL within a certain period of time.

Let me ask Dr. Hobson a question directly. Is there no other way, medically, to determine a causal connection? Are we basically limited to statistics?

Dr. HOBSON. At the present time we're under a charge to consider the statistical association primarily—I would say, not exclusively. But that is the common way in which you can establish something where the connection is not completely clear.

Mr. BILIRAKIS. Well, what we're saying there is if the statistics came out similarly, we would assume there is a causal connection. If the NHL statistics had been lower, the percentage had been lower, or in the same category as the other cancers checked, then we would not have established this presumption of a causal connection. So we're going strictly on statistics?

Dr. HOBSON. The decision was one of policy. I can't speak to what the policy decision would have been had there been less statistical support.

Mr. BILIRAKIS. But, sir—and I appreciate the fact that you work for the VA—you are also a medical doctor, not that they're mutually exclusive.

[Laughter.]

Dr. HOBSON. I hope not.

Mr. BILIRAKIS. You're a medical doctor. From a medical standpoint and again, I raise the same question that I raised earlier, you answered it in terms of policy: Is there not any other way in which we can determine causality? It seems to be somewhat weak that we depend strictly on statistics. I know the power of statistics in this world of ours, but still, it does seem weak to me. I wonder what your response might be to that.

Dr. HOBSON. My response is we frequently make causal connection without going to that, where we can demonstrate some kind of link. For example, an infection, where we can find the particular germ that causes that infection, we don't need statistical proof to say that is connected.

This is a somewhat different problem. This is a public health type of problem rather than an individual, case-by-case one. We are under court injunction not to use cause and effect in making our determination at the present time.

Mr. BILIRAKIS. Not to use cause and effect.

Dr. HOBSON. That's correct.

Mr. BILIRAKIS. In other words, not to use medically-proven methods to try to determine this?

Dr. HOBSON. I think that's a rather strong way to put it. I'm not sure the court would agree with that. But in terms of words, that is basically what it is. The cause-and-effect requirement is too strict for us to make a connection on that basis alone.

Mr. BILIRAKIS. Are we basically saying that the court is restricting the Government in terms of the process to be used to determine causability? Is that basically what we're saying here?

Mr. PRINCIPI. I think it is helping us. Veterans, particularly Vietnam veterans, in my view, were handicapped by the cause-and-effect relationship, because it's virtually impossible to prove cause and effect. By adopting a standard of significant statistical associa-

tion, I believe the standards have been liberalized. Because of that, we are able to show that, as a result of the CDC study, NHL had a significant statistical increase and, therefore, we could service connect. So I believe the court decision helped us and did not hurt us. That's the way I view it.

Mr. BILIRAKIS. And you believe it helped the veteran?

Mr. PRINCIPI. Absolutely. Absolutely.

Mr. BILIRAKIS. Well, this is obviously a complex situation, Mr. Chairman.

If we are really trying to do everything we can with a medically reasonable method to determine whether or not there is a causal connection, and we run into a stone wall because maybe that method doesn't work, then statistics are helpful insofar as some veterans are concerned—I agree with you, if we are doing everything we possibly can towards that end. I guess that's basically more of a medical finding than anything else. I know my time is up, but that's my biggest concern, I don't mind telling you, Mr. Deputy Secretary.

Thank you very much, sir.

Mr. APPLEGATE. Thank you very much, Mike.

Mr. Chairman.

Mr. MONTGOMERY. Mr. Chairman, I would like to make a motion, that the study that has been presented here today on the human health effects associated with exposure to herbicides and other areas pertaining to Agent Orange, that the Office of Technology Assessment have the opportunity to review this study, as well as the National Academy of Science, and that the record be held open until they can make a report.

We pay millions of dollars a year to OTA to make these studies, and I would certainly think that, hopefully, we would have no objections to them looking at it.

Mr. EVANS. I would have no objections. I would like to then also be able to perhaps submit some written questions to the OTA people in response to their report in response to this report.

Mr. MONTGOMERY. No problem. It's an arm of the Government and they have already given us an assessment on CDC's, so I think it would be only fair that they take a look at this report.

Mr. BILIRAKIS. If the gentleman would yield, these questions that you refer to, Lane, are you indicating you would offer those questions after this study, or are we able to offer questions before the study so that their response to our questions will be a part of the study and vice versa?

Mr. EVANS. I know I'm making this rather complicated. What I am referring to is asking OTA written questions after they've had a chance to look at the report.

Mr. BILIRAKIS. But prior to their response to us?

Mr. EVANS. I don't know what their response might be. I know Ms. Galbrand was at the press conference yesterday, and hopefully she got a copy of the report. We will officially submit it to her in line with the Chairman's request. I don't know what their response as an organization might be. So I would think it would be hard to ask questions in advance of not knowing what their response would be, but if that's feasible, I wouldn't object to it myself.

Mr. BILIRAKIS. Thank you.

Mr. MONTGOMERY. I did add the National Academy of Sciences. I think that's an independent agency and it would be good for them to look at it, too.

Mr. APPLEGATE. You have heard the motion. Without objection, the motion will be passed.

Mr. Geren.

Mr. GEREN. No questions, Mr. Chairman.

Mr. APPLEGATE. Mr. Rowland?

Mr. ROWLAND OF CONNECTICUT. Thank you, Mr. Chairman. I just have one question, and it may have been touched on already.

In the testimony the VA indicates that they are going to go through the rulemaking process and the report, if my recollection is clear, would come due in October; is that correct?

Mr. PRINCIPI. That is correct. We will issue final regulations in October.

Mr. ROWLAND OF CONNECTICUT. One of the concerns that I've always had, certainly over the last several years, is where we worked on the special pay issue for nurses and technicians. We went back and forth with the VA examining various studies and trying to come to some determinations. It seems that over the years the reports always came back just as we are leaving. We were never able to fully implement or examine the issues.

My question would be this. Would you outline the progress so far in the rulemaking up to this point?

Mr. HICKMAN. At this time, sir, we will be waiting for the Environmental Hazards Committee to look at the CDC study and numerous other studies in 2 weeks. Based upon their recommendations at that time, we will begin the rulemaking process.

Mr. ROWLAND OF CONNECTICUT. And why do you conclude that it would take several months before October 1 to do so?

Mr. HICKMAN. Certainly, as the rule is proposed, then we open it up for the public to comment on it and provide us additional information.

Mr. ROWLAND OF CONNECTICUT. So the rulemaking process requires you to open the Register for 30 days, with comment periods and so forth?

Mr. HICKMAN. At least 30 days, sir.

Mr. ROWLAND OF CONNECTICUT. So you're following that process, and with that, it brings you up to October 1?

Mr. HICKMAN. Yes, sir.

Mr. ROWLAND OF CONNECTICUT. Okay. Thank you. Those are the only questions I had.

Mr. APPLEGATE. I guess that concludes the questions from the Members. Tony, thank you and your staff for being here with us today to answer some of those questions of interest to the Members.

Mr. PRINCIPI. Thank you, Mr. Chairman.

Mr. APPLEGATE. We are very honored to have one of our own return back to the great halls of the House of Representatives. Senator Daschle is with us this morning and here to testify. Tom, it's always good to see you. Welcome back to the committee, your first committee of choice, I presume. You are always a very valued member of this committee, too. It's good to see you come back.

STATEMENT OF HON. THOMAS DASCHLE, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

Senator DASCHLE. Thank you very much, Mr. Chairman. It's good to be back.

I started in that chair right in front of you and have a lot of fond memories of our occasions here, with the many efforts that we undertook on behalf of veterans over the years. I have an important moment today, as a matter of fact. The steering committee in the Senate is meeting at noon and will decide on my application for membership to the Senate Veterans' Affairs Committee. I am hopeful that that will be successful.

Mr. APPLEGATE. I'm sure it will, and congratulations.

Senator DASCHLE. Thank you. It would be a real pleasure to be back and to see so many of my colleagues again.

I apologize for my belatedness. I had an amendment in the Senate Agriculture Committee that I had to offer, and that was successfully concluded. So I am pleased to be here.

I want to thank you for giving me the opportunity to testify on H.R. 3004, legislation sponsored by Congressman Evans and 164 of our House colleagues. I strongly support that legislation. In fact, in most respects, it is similar to my bill which has now passed in the Senate twice, and is also pending before this committee.

I also want to impress upon this committee the sense of urgency that I feel as we address this issue once again. There are tens of thousands of veterans around the country who are looking with great expectations and certainly with great hope that this may be the year that we, at long last, address this issue successfully. They are frustrated by the inaction, they are frustrated by the unfair treatment they have received, and they are very hopeful that the statements of commitment and ultimately our promises to treat them as they would expect to be treated will ultimately come to fruition this year.

There are really three things we can do if we are going to help the victims of Agent Orange. The first is one we have dealt with on occasion here in this committee, and that is, to provide them with health care through the VA system. Second, of course, is to provide them with the best possible information about their relative health risks and sound medical advice about dealing with those risks. And obviously, the third is to provide disability compensation to those veterans who are unable to work as a result of their Agent Orange injuries.

That is what I like about this legislation, H.R. 3004. It addresses all three of those needs. It addresses the first, of course, by extending VA health care for Agent Orange related illnesses; it addresses the second need by establishing an independent scientific review procedure. By the way I am pleased with the action taken this morning to seek scientific comments on the Agent Orange Scientific Task Force report. I would only hope that it not be used as another way to elongate the whole deliberative process and thereby move us into the next Congress. It would be very important to get that data at the earliest possible date in order to evaluate it constructively. But certainly that is what our legislation does; it gives

us an ongoing evaluative ability to deal with the scientific evidence as it exists now and presents itself in the future.

Then, finally, it ensures that veterans suffering from certain diseases associated with Agent Orange will be duly compensated.

Opposition to compensation really hinges on two critical arguments. The first is that there is not enough evidence supporting veterans' claims, and the second is that there is strong evidence refuting their claims. Frankly, both arguments are false. For several diseases there has been plentiful and strong evidence linking them to Agent Orange for several years. We have cited the evidence on the Senate floor and in previous testimony.

As for the evidence refuting veterans' claims, it has been consistently exaggerated by Government agencies, chemical companies, and certain opponents of Agent Orange compensation. In fact, the Government and other compensation opponents have reportedly delayed, shelved, and misrepresented some of the scientific information.

Recent developments confirm that statement. Just a few weeks ago the public learned as a result of a lawsuit in Illinois that one of the studies by Monsanto, the chief producer of Agent Orange, was seriously flawed because of misclassification between the exposed and unexposed groups of the study. Although the Government has consistently cited the Monsanto study as strong evidence against Agent Orange disability claims, the Illinois trial has revealed the fact, confirmed by an EPA scientist, that the study, if conducted properly, actually would have supported veterans' claims. How ironic that, after all these years, we have seen opponents site the Monsanto study as a definitive analysis of the impact of Agent Orange, only to now have a trial reveal it is just the reverse. It has been misrepresented for all these years.

And of course, just yesterday, the Agent Orange Scientific Task Force of seven independent scientists, expert in the field of dioxin and various pesticides, released its report linking eight diseases with exposure to Agent Orange and expressing concern about several other diseases for which evidence supporting such a link is mounting.

All of this points to the need for constructive action on the Agent Orange front. I must tell you that I am very pleased with the Secretary's response, for his dedication, for his clear interest in resolving this matter. I just talked to him again yesterday, and he certainly is determined to take all of the information provided and complete the very best analysis of that information before he makes his decision.

It seems to me Congress has two important roles in this endeavor. First, we have to ensure that the Secretary, as well as the veteran and scientific communities, receive independent, reliable information about Agent Orange and its health effects. That is exactly what the National Academy of Sciences review procedure in this bill is designed to do.

Second, we have to compensate those veterans suffering from diseases for which there is already sufficient evidence supporting compensation, giving the veterans the benefit of the doubt as the law already requires.

In closing, Mr. Chairman, and members of the committee, I want to stress the importance that we put on the Congress meeting its responsibilities in this area this year. We have waited too long. I was elected in 1978, and came to this committee in 1979. Agent Orange was one of those issues we debated more than 10 years ago. During those 10 years, unfortunately, a lot of veterans have died, and a lot of veterans continue to go without proper compensation, relegated to welfare and other humiliating experiences simply because Congress has not provided them with the same opportunities for disability compensation as we have provided for 54 other presumptive disabilities so far.

So I really appreciate your holding this hearing, and I take it as a commitment on your part to resolving this matter. I am pleased to join in that effort. I thank you and members of the committee for your time.

[The prepared statement of Hon. Thomas Daschle appears at p. 87.]

Mr. APPLEGATE. Thank you very much, Tom. As always, you articulate your position exceedingly well. You didn't let us down today. It was a very eloquent statement.

I don't have any particular questions myself. Mr. Stump.

Mr. STUMP. No questions.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Senator, we want to welcome you back to the committee. If I could think of really one point man on Agent Orange, it has been Senator Tom Daschle, who since he was on this committee has been an advocate for Vietnam veterans and veterans of all eras, but particularly in this area. This bill has its genesis with your original passage of legislation back, I guess, in 1984, and your continued advocacy.

We also know that the Senate has passed legislation. I guess there was a motion to table that legislation at one point. Can you tell me how much that motion failed by?

Senator DASCHLE. If I recall, the vote was 94 to 3, something of that order. It was an overwhelming vote in opposition to tabling.

Mr. EVANS. Both as a member of this body, and now as a Senator, how long have you been pursuing Agent Orange legislation?

Senator DASCHLE. As I said a moment ago, we have pursued this now for 11 years. We started out with a bill that would have provided compensation back in 1979. We have been partially successful over the years in ensuring that veterans at least have some medical care. But even in those cases, the VA's record has been a marginal one.

We can do a lot better, certainly in providing compensation, and we can finalize the book written on this sordid episode in our history. We hope at long last we can provide veterans with the confidence that they will be treated the same as a lot of other veterans.

One of the lessons we should have learned from the story of veterans' exposure to atomic radiation is that it took 40 years for us to come to the conclusion that exposure to atomic radiation was harmful and that compensation was necessary. We have now done that, and we are now in the process of expanding that compensa-

tion to include a lot of veterans who were not included in the original legislation.

I would hate to see us wait 40 years before we compensate veterans exposed to Agent Orange. I am hopeful that we can avoid that mistake by passing meaningful Agent Orange legislation this year.

Mr. EVANS. Before you arrived here I also joined in the accolades that you have given to the Department of Veterans Affairs Secretary for taking a new look at this issue. However, the testimony of the DVA today was that they would like us to hold legislation such as my bill, and I assume yours, in abeyance until basically October. Of course, as you know, our targeted adjournment date is the middle part of October. Thus, in my opinion, it is asking us, in effect, to hold off any further action for the 101st Congress.

What would your reaction be to that position?

Senator DASCHLE. Lane, I would be very much opposed to it. We have, as a result of the report released yesterday, a tremendous amount of evidence which links Agent Orange exposure to certain kinds of illnesses. First of all, giving the veterans the benefit of the doubt here goes beyond any studies. But now we have compelling evidence which relates those diseases to exposure to Agent Orange. I don't know what else the Congress could want in terms of the evidence it needs, the confidence that it ought to have, as we relate these diseases to exposure and ultimately provide compensation to veterans.

That's really all we're asking. Let's give them the benefit of the doubt, and then let's take the National Academy of Sciences review process, and let's apply it to all the additional data, and incorporate whatever advice they give us into further rulemaking on benefits for other diseases.

We have done it, as I said, on 54 occasions so far. The need to do it for at least five more diseases relating to exposure to Agent Orange is very clear.

Mr. EVANS. I thank you for your leadership and appreciate your coming over to our side to give your testimony today.

Senator DASCHLE. Thank you.

Mr. APPLEGATE. Thank you, Mr. Evans.

John Rowland.

Mr. ROWLAND OF CONNECTICUT. No questions.

Mr. APPLEGATE. Mr. Jones.

Mr. JONES. I would like to thank the Senator also for coming over and for your very eloquent testimony.

You know, we talked a lot about evidence, that search for conclusive evidence, as if that is what is preventing movement on this. You say the evidence is there, and I guess it's in here. I haven't read this yet. I just got it this morning.

Could you touch on some of that evidence that you find convincing, just briefly?

Senator DASCHLE. The evidence presented in that document is simply a compilation of prior studies that have been done.

These scientsts were encouraged to undertake this effort simply because we really didn't have a definitive analysis of the information that currently exists. We have always heard reports on this study or that one, but a proper compilation of that information has never been presented by anyone. So the American Legion, the Viet-

nam Veterans of American, and the National Veterans Legal Services Project gathered a task force that presented, in as concise a way as possible, a review of the scientific data as it has been presented by other scientists around the world so far.

The results of that compilation are pretty compelling. What they say, based upon the studies that have been done, is that at least for five specific diseases, mostly cancers, there is an adequate—in fact, more than adequate--scientific evidence to support the conclusion that veterans exposed to Agent Orange can be linked to much higher disease rates than veterans who have not experienced exposure. Also, for three additional diseases, the evidence makes a similar conclusion "at least as likely as not."

Mr. JONES. Thank you very much.

Mr. APPLEGATE. Thank you, Mr. Jones.

Mr. Geren.

Mr. GEREN. No questions, Mr. Chairman.

Mr. APPLEGATE. Tom, thank you very, very much. I, too, would join in some of the accolades for the Department of Veterans Affairs, and the fact that I think, at least in my memory, since I've been here a short 13 years, we haven't had higher level of cooperation from them. I think Ed Derwinski has been one who has had enough foresight to see that there are some problems and he has shown a willingness, as well as that of his deputy directors and staff, to work with the Veterans' Affairs Committee to try to resolve some of the problems. We appreciate that.

We have a long way to go because there was a lot done to the Department, as it was, over the years, and the effect it had on the veterans. So we have a ways to come back. But I think they're at least heading in the right direction.

Again, I thank you very much, Tom, for being with us today.

Senator DASCHLE. Thank you, Doug.

Mr. APPLEGATE. Our first panel is Mr. David Maier, a Vietnam veteran from Bay Village, OH, and Mr. William W. Lewis of the New Jersey Agent Orange Commission, if you would both come up to the table.

I want to thank you very much for being before the committee. We look forward to hearing your testimony. Mr. Maier, if you would like to begin.

STATEMENT OF DAVID MAIER, VIETNAM VETERAN, BAY VILLAGE, OH.

Mr. MAIER. Mr. Chairman, I have prepared written testimony and I would like that to be entered into the record, because my remarks here will be much briefer.

Mr. APPLEGATE. Without objection.

Mr. MAIER. My name is David Maier. I am from Bay Village, OH. I am 47 years old, married, and have three children. I'm a veteran of the U.S. Navy and the Vietnam war, having served aboard the U.S.S. Westchester County, LST-1167, between April, 1967 and December, 1968.

As you can see, I'm a forequarter left arm amputee. I lost my hand, forearm, upper arm and shoulder due to cancer surgery to save my life. This is a prosthesis.

It is my intention today to explain the facts of my case and the reasoning and logic I used to conclude that my cancer is the result of my military service in Vietnam and exposure to the herbicide Agent Orange. Finally, I will ask that this committee move on the legislation before it to provide presumption of service connection for this disease.

I believe I was exposed to Agent Orange when my ship was on station approximately 35 miles up the Mekong River near the city of Dong Tam, Vietnam. The ship was acting as a station ship supporting the operations of the Navy's Mobile Riverine Force and Army units in the area.

The ship was unable to store large quantities of fresh water required for the needs of the crew. Consequently, the ship's water systems were specially rigged to draw water from the Mekong River to be used basically untreated in the toilets, showers, sinks and laundry area of the ship.

Today we know the water was full of Agent Orange runoff from the Ranch Hand spraying and from the Navy itself spraying Agent Orange along the banks of the river.

It was about 5 years after leaving Southeast Asia, in 1974, that I became aware I was having health problems. It started out as joint pain, but later the pain was more concentrated in my left elbow. It was diagnosed as tennis elbow. Two-and-a-half years later, I was taking 14 to 16 asprin a day for the pain, which was unbearable. A tumor showed up in "X" rays of the bones of my shoulder and upper left arm. The doctor did a biopsy of the upper humerus, removing a tumor the size of a walnut. It could not be identified even after consultation with other hospitals and medical schools. The doctor assured me it could not be cancer because I was too young. I was only 34.

I was referred to the Mayo Clinic in Rochester, MN. After additional extensive testing, the diagnosis of angiosarcoma, a soft tissue sarcoma cancer, was made. Because this was a very aggressive cancer, surgery was performed immediately. The doctors were positive and hopeful about my full recovery, sparing me the fear that they had that the cancer would spread to my lungs.

Through the prayers and support of my family and friends, and the grace of Almighty God, I made it . All of my check-ups have been excellent and it's truly a miracle.

Through the months that have now turned into years, I had just one question—where did this terrible rare cancer come from? The Mayo Clinic doctor said that this cancer was so rare that most busy surgeons in major hospitals never see a case of it.

It was my five-year benchmark when I got the answer to my question. It came in the form of an article in the New England Journal of Medicine in 1982. The doctors at Emory University School of Medicine reported three cases of Vietnam veterans who had been exposed to Agent Orange and had soft tissue sarcoma cancers. They felt the finding very significant because of the extreme rarity of this cancer in the general population. This was the same rare cancer that I had. I had been exposed to Agent Orange and its cancer-causing by-product, dioxin, in the water of the Mekong River. The hardest part was realizing that I was a casualty of war because of actions of my own Government.

My story is not unique, except that I survived physically and mentally, because I made a conscious choice to pick up and move on with life. There were still many obstacles to overcome, particularly in day-to-day living—shaving, buttoning a shirt, zipping trousers, and just eating. All of this is frustrating, but minor in comparison to wondering if an ache or a pain is a recurrence, or if you will see your next birthday, or if you will live long enough for your children to remember who you are.

I also have had the persistence in my reliance on the truth to stand up to a government that has not honored its commitment to all of its veterans. My cancer tissue samples were excluded from the Selected Cancers Study because my cancer was diagnosed prior to December, 1984. The rationale for excluding early cancers was that they probably had their origins before a person's service in Vietnam, totally disregarding the amount of exposure, the tolerance of a person's immune system, and their relationships to the clinical appearance of the cancer. To me, it is a coverup by scientists, influenced by the Government agency they represent.

There are thousands of Vietnam veterans who are suffering and dying from their rare cancers caused by Agent Orange exposure. They are unable to be here. It is for all of us that I urge you to pass this legislation. To heal this generation of patriotic Americans, we must acknowledge what has been done to them. It is only then that the genius of our modern medical community can take these mistakes and learn from them.

During the Vietnam war my shipmates and I never doubted, even for a minute, that if we were injured by hostile fire, or friendly fire, we would be taken care of by our country and our families would be provided for. These rare cancers and diseases are the direct result of our service during the Vietnam war, and they are just as disabling and deadly as conventional weapons. I urge you to make good on your commitment to those who have fought for their country.

Thank you for allowing me to testify. I will take any questions you may have.

[The prepared statement of David Maier appears at p. 105.]

Mr. APPLEGATE. Thank you very much, David.

Mr. Lewis.

STATEMENT OF WILLIAM W. LEWIS, NEW JERSEY AGENT ORANGE COMMISSION, AND PROJECT DIRECTOR, POINTMAN RESEARCH PROJECT

Mr. LEWIS. Thank you, Mr. Chairman. I also have a written commentary that I would like to enter in the record, if I may.

Mr. APPLEGATE. Without objection.

Mr. LEWIS. Thank you.

Fifteen years ago Saigon fell to the North Vietnamese. I remember vividly the news reports that the war was over. At that time, we, as Vietnam veterans, had little inkling that the war was not over for many of us and, indeed, might continue for many years. Last week, Time Magazine chronicled the anniversary of the fall of Saigon with its cover story. Fifteen years later, Vietnam still haunts us. For many Vietnam veterans and their families, the pain

and suffering continues. Agent Orange has become the intolerable legacy of Vietnam for many of those who fought the war.

We are here today to offer support for H.R. 3004. We believe that such presumptive disability legislation is long overdue. While we firmly support ongoing research efforts, it has become abundantly clear that science and research are not going to provide clear-cut answers to the question of health effects from herbicide exposure in the immediate future. In the meantime, thousands of veterans and their families suffer from a host of health problems that may well be connected with such exposure.

Over the past 10 years, we have been in contact with thousands of veterans and their families. These people are confused and fearful that Agent Orange has had a negative effect on their lives. Allow me to share with you a brief quote from a letter I received from a veteran in California:

"What can I do? I'm trying various diets, taking a stress reduction course and trying to maintain. But I am not at all close to that elusive 'quality of life' and at times I can hardly drag myself to work or even to do fun activities. I cannot control the pain. I've learned to endure, but when it gets fierce, it is almost unmanageable. I'm beginning to doubt my sanity; yet I know there is something wrong internally but I cannot find out what."

Those of us who work with Vietnam veterans hear statements like this all the time. There are too many veterans suffering for this to be coincidence. Indeed, there is a continuing body of evidence to suggest that health problems of Vietnam veterans and their children are all too real.

As I travel around the country, I learn that Agent Orange is a major concern of many veterans. They want to know what the Federal Government is doing to help them, and many believe that their Government simply doesn't care about them. They want to have the faith and the trust that Government will do the right thing, but that faith and trust weakens as the years go by and the Government seems hung up in the windmill of endless debate over whether or not there has been enough scientific evidence that Agent Orange exposure has caused harm. There will never be enough proof to satisfy some, and veterans will continue to suffer unless something is done to help.

We are a compassionate and caring people. Surely we have proved this around the world and through the years with countless examples of generosity to those in need. Vietnam veterans deserve the same caring and compassion we have shown to others.

H.R. 3004 is a step in the right direction. It is a signal to veterans that their service was meaningful and that the Nation cares enough to take care of them in their need.

Thank you.

[The prepared statement of William Lewis appears at p. 110.]

Mr. APPLEGATE. Thank you very much, Mr. Lewis.

Mr. Maier, when was your tenure in Vietnam?

Mr. MAIER. The years 1967 and 1968. I was aboard ship, and our home port was Yokosuka, Japan. So I was in and out of the country with the ship, of course. I got 13 months credit for Vietnam service.

Mr. APPLEGATE. You were on board ship?

Mr. MAIER. Yes, sir.

Mr. APPLEGATE. Where was your contact with the Agent Orange?

Mr. MAIER. I believe it was in the water, sir. The ship wasn't able to store enough fresh water, so——

Mr. APPLEGATE. The drinking water, you mean?

Mr. MAIER. Well, we were told not to drink it, but we were showering with it, shaving with it, brushing our teeth with it, but we weren't supposed to drink it.

Mr. APPLEGATE. When was your cancer found?

Mr. MAIER. It was properly diagnosed in June of 1977.

Mr. APPLEGATE. Then your surgery was shortly after that?

Mr. MAIER. It was the next day.

Mr. APPLEGATE. At that time, was there any blood samples that were taken? Did they take any blood samples of you at that time?

Mr. MAIER. Yes, sir, they did. They took plenty.

Mr. APPLEGATE. Do you have the results? Did they check it for dioxin? Was there any determination at that time, or do you know?

Mr. MAIER. The blood samples were, of course, first taken at my local hospital in Cleveland, OH.

Mr. APPLEGATE. Yes, that's automatic.

Mr. MAIER. And then I went to the Mayo Clinic and blood samples were taken there. But questioning the doctors years later, you know, when I made this connection, there was no dioxin testing done of my blood.

Mr. APPLEGATE. There wasn't any testing.

Mr. MAIER. No, sir.

Mr. APPLEGATE. So it's been 22 years since you've been in Vietnam?

Mr. MAIER. Yes, sir.

Mr. APPLEGATE. Okay. That gives me a little bit of information.

Mr. Stump.

Mr. STUMP. No questions, Mr. Chairman.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Mr. Maier, I read your entire testimony. I understand your ship got hit at one point with 29 men killed.

Mr. MAIER. Yes, sir.

Mr. EVANS. So you were in what the Marines would call a pretty hot LZ for an extended period of time, even though you were home ported in Japan. I just want to thank you for the service that you've rendered to our country.

I would ask you, you've been trying to obtain some kind of disability pension benefits, or compensation, I should say, from the Department of Veterans Affairs——

Mr. MAIER. Yes.

Mr. EVANS. —for what is diagnosed as soft tissue sarcoma cancer, is that correct?

Mr. MAIER. Yes, sir.

Mr. EVANS. How long have you been trying to obtain those benefits?

Mr. MAIER. My original claim was filed in September of 1982. It was denied almost immediately. My appeal was taken up by the Vietnam Veterans of America legal services. I have had two hear-

ings before the Board of Veterans Appeals in Washington, D.C., and it is now 8 years and it's undecided.

Mr. EVANS. And what is your age now?

Mr. MAIER. Forty-seven.

Mr. EVANS. But you had evidence manifesting a problem since you were 32, did you say?

Mr. MAIER. Yes. The problem started when I was about 33.

Mr. EVANS. And misdiagnosed, I understand.

Mr. MAIER. Misdiagnosed, yes.

Mr. EVANS. We are in the process, as you know, of considering legislation that would award compensation to soft tissue sarcoma victims such as yourself. Yet we have been asked today by the Department of Veterans Affairs, which I think is trying to resolve some of these issues, to basically hold off on the entire legislation, including compensation to your specific category of victims, until the Department of Veterans Affairs has the opportunity to do rulemaking on one other illness.

I just wonder, as a veteran who has served this country so well, what your personal reaction to that request is.

Mr. MAIER. I can't believe they want to slow it down any more. It has gone on so long.

I am very happy to see some of the moves that the new Secretary has made, and I'm sure he wants to do the right thing. But so much time has gone by, I think we have to move through this committee and do it that way.

Mr. EVANS. I thank both of you for testifying, and I appreciate both of your services to our country.

Mr. APPLEGATE. Thank you, Mr. Evans.

Mr. Rowland.

Mr. ROWLAND OF CONNECTICUT. Mr. Maier, I also want to thank you for being here this morning.

Do you have any knowledge of any of the other crew members that may have contracted other illnesses or cancers? I know it would be very difficult for you to keep in touch with them, but are you familiar with any other instances where your shipmates have come up with illnesses, or even any type of health problems?

Mr. MAIER. This question is raised to me quite frequently. I have made some efforts to locate other crew members. One gentleman in particular was the supply officer under whom I served. He has a child that has been born with a hearing defect. She is deaf.

The fellow that prepared my testimony for the Department of Veterans Affairs on how the water was treated aboard ship, he has a rash on his hands. He was career Navy and he was treated by Navy doctors around the world in the service. He still has this rash and they don't know what it is.

Mr. ROWLAND OF CONNECTICUT. Do you know of any other service personnel that had problems that were in that vicinity during the conflict?

Mr. MAIER. One person would be Admiral Zumwalt's son. He was on the riverboats right where I was serving.

Mr. ROWLAND OF CONNECTICUT. Has the VA made any attempt to, for the lack of a better term, cross-check to see if there have been sicknesses or illnesses or cancer-related problems for those that are in the VA system and may have served in those vicinities?

Mr. MAIER. Not to my knowledge, sir.

Mr. ROWLAND OF CONNECTICUT. Mr. Lewis, do you know of any such attempt to cross-check or of any effort by the VA to research that?

Mr. LEWIS. Not to my knowledge, sir.

Mr. ROWLAND OF CONNECTICUT. Okay. Thank you very much for being here. We appreciate your testimony.

Mr. APPLEGATE. Thank you, Mr. Rowland.

Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman.

I'm curious as to this taking on of river water. Was that a common practice, or do you know of other ships that did that in that region? I also would like to know a little more about your ship, how many men were on board.

Mr. MAIER. The ship I was on was the U.S.S. Westchester County. It had a regular crew, with officers, of 150 persons. We had the ability to take on an additional 400 troops. That's what we were doing in this operation. We were servicing that many additional troops. They would come aboard for what we call "In Country R&R". They would get some hot meals, hot showers, see some movies, get a couple of nights rest in the racks on board, and then go back out.

Normally, at sea, when you wouldn't be carrying that many troops, we could process the salt water through the ship's distilling system and make plenty of fresh water. But this demand that we had in the river was considerable, and I think they knew that the water was not safe. They did tell us not to drink it. So by just filtering out the big hunks, we were able to have all the water we needed for the toilets and the showers, washing clothes and shaving.

Some of this water was put through the ship's distillery and distilled for cooking purposes, which leaves the question of was this water safe to drink, was the dioxin distilled out of it? It becomes kind of a moot question for the crew anyway. When we went back out to sea, these additional apparatuses were taken off the water system and the drinking fountains were opened up again. It was the same plumbing system. So if any dioxin was in the plumbing system, it was still there.

Mr. JONES. The other question was, was this a common practice? Did you know of other ships, or have you talked to other——

Mr. MAIER. There was the U.S.S. Benewah that was stationed in this area full time, and I understand the practice was the same aboard that ship.

Mr. EVANS. Would the gentleman yield?

Mr. JONES. Yes.

Mr. EVANS. You're talking about your own experience. But wouldn't it normally be the experience of Navy ships in the fresh water areas of Vietnam rivers to do this on a regular basis, taking water? I think you're speaking more to your own experience and knowledge of ships that were there. Is this a general Navy practice, I think is what the Congressman is directing to you.

Mr. MAIER. Well, yes. This was the Vietnam war and they did have some unusual circumstances. But there were nine LST's in the same squadron that my ship was in. We rotated this duty. We

would serve for two or 3 months, and then another sister ship would come in. All of these ships were doing the same thing.

Mr. JONES. There were blue water ships taking on brown water, going inland and——

Mr. MAIER. Right.

Mr. JONES. That's the experience I was referring to. So that was common?

Mr. MAIER. Yes.

Mr. JONES. Did you know at the time, or were you told, or did you talk to those who procured the water as to where they were getting it? Was there talk of Agent Orange or dioxin? Were those terms ever used?

Mr. MAIER. It was a small ship, and everybody knew everybody, so we knew how the water system was hooked up. There was no talk of dioxin or herbicides at the time. The water looked and smelled terrible. You wouldn't want to drink it. As soon as your turned on the faucet, the odor was just obnoxious.

If you had heard anything about Agent Orange, you wouldn't think it was a Navy term, but some other branch of the service that was there. I do remember going up to the deck of the ship and looking out. The Mekong River is quite wide, like the Mississippi, in places you can just barely see the shore. I did remember the observation that the trees didn't seem to have any leaves on them, and there didn't seem to be much vegetation. But being in another country and in another part of the world, in a war zone and everything, you think maybe they were just blown off by bombs or it was a different season, or that maybe the plants here just don't have any leaves.

Mr. JONES. Following up on Congressman Rowland's question, Mr. Lewis, do you know of any studies that have been done on water taken from the Mekong?

Mr. LEWIS. We are in the process of completing a study that we refer to as our Pointman II study. Part of that study includes a look at people who worked on the river patrol boats, particularly in the Mekong Deltas. We hope to have a dioxin analysis on a small pilot group of people completed by the end of June, and we hope to have something from that at that point in time.

Mr. JONES. Thank you. We really appreciate your coming here today and sharing this testimony with us. We certainly applaud your courage and your perseverance in this, too.

Mr. APPLEGATE. Mr. Geren.

Mr. GEREN. I also want to thank you for your testimony. Perhaps this question could be best directed to Mr. Lewis, or maybe some of the experts who will come before the panel later.

How long after exposure to Agent Orange can you still pick up traces of it in the human blood system?

Mr. LEWIS. At this point in time, it is not clear exactly what the half-life residual of dioxin is in the body. But we know, by virtue of our Pointman I study, that we were able to detect elevated levels in veterans 20 years after the fact.

Mr. GEREN. I beg your pardon. How many?

Mr. LEWIS. Twenty years. Presumably, when we get results from this group that I mentioned earlier, some of these men will be 22, 23 years since they left Vietnam.

Mr. GEREN. Do you have any idea of the numbers of men who would have been exposed to the waters of the Mekong River as Mr. Maier was? Do we have a test sample that's big enough there to——

Mr. LEWIS. As far as people who were exposed to those particular waters in the Mekong Delta, there were thousands and thousands. In addition to that, I would mention that the use of water was something that—obviously, everyone drank water and the water sources all came from in-country.

Another example, which again is another part of our study, is that in the infantry, the Marines and I Corps, very often on operations and that sort of thing, they were resupplying their water from the local sources directly from the rivers and streams and so forth. In that case, there was virtually no treatment whatsoever, except perhaps halizone. But most infantry troops tended not to use the halizone because it gave the water a very bitter taste. In fact, the most common treatment of water in Vietnam, from the infantry point of view, was Kool Aid.

Mr. GEREN. Mr. Maier, how long was your ship actually in the river of this 13 months of your Vietnam service?

Mr. MAIER. My time aboard ship was actually 2 years, and during that 2 years we had two three-month periods in that river.

Mr. GEREN. You had two to 3 months in the river?

Mr. MAIER. No, two three-month periods.

Mr. GEREN. I see. So it was 6 months out of the 2 years?

Mr. MAIER. Yes.

Mr. GEREN. Thank you, Mr. Chairman. I have no further questions.

Mr. APPLEGATE. Thank you, Mr. Geren.

Mr. McEwen.

Mr. MCEWEN. Mr. Maier, are you receiving health care from the Department of Veterans Affairs presently?

Mr. MAIER. No, sir, I am not.

Mr. MCEWEN. Have you requested it, or do you desire it? Have you been denied it?

Mr. MAIER. I have been denied it, yes.

Mr. MCEWEN. I'm just talking about health care, not for the Agent Orange-related cancer.

Mr. MAIER. Originally, after my surgery at the Mayo Clinic, they knew I was a veteran and they suggested that I contact the Department of Veterans Affairs for possible help with the prosthesis. I was denied because they said there was no service connection.

Mr. MCEWEN. It is my understanding that we wrote the law so that you're entitled.

Mr. MAIER. Yes, sir, that's true. But at that time I was not aware that my cancer was a result of Agent Orange, so I did not bring up that issue.

Mr. MCEWEN. But you could presently, if you chose?

Mr. MAIER. Yes.

Mr. MCEWEN. Thank you very much.

Mr. APPLEGATE. Thank you, Mr. Lewis and Mr. Maier. I, too, just as an individual, as a member of this body politic, just as part of this Government, want to thank you both for the service that you have rendered to our country and to its people. You have much to

be proud of, and we have much to be proud of in having people like yourself appear before us. I thank you very much.

Mr. MAIER. Thank you.

Mr. APPLEGATE. Our next panel will consist of Mary Stout, National President of the Vietnam Veterans of America. She is accompanied by Mr. Paul Egan, the Legislative Director of the Vietnam Veterans of America. And Mr. John Sommer, Director, National Veterans Affairs and Rehabilitation Commission of the American Legion.

Mary and all, it is nice to have you before the committee. If you would, Mary, why don't you proceed.

STATEMENT OF MARY R. STOUT, NATIONAL PRESIDENT, VIETNAM VETERANS OF AMERICA; ACCOMPANIED BY PAUL S. EGAN, LEGISLATIVE DIRECTOR; AND RICHARD W. CLAPP, M.D., DIRECTOR OF ENVIRONMENTAL HEALTH STUDIES, JSI RESEARCH AND TRAINING INSTITUTE, INC., BOSTON, MA.

Ms. STOUT. Thank you, Mr. Chairman.

I want to thank you for having this hearing. It's been a long time. We have talked about it for a long time, and it is nice to be here today to finally talk about this legislation.

Mr. APPLEGATE. Mary, would you identify the gentleman to your left?

Ms. STOUT. Oh, I'm sorry. This is Dr. Clapp. Dr. Clapp is one of the scientists who has put together our task force report. He is Director of Environmental Health Studies for JSI Research and Training Institute, Inc., in Boston, MA.

Mr. APPLEGATE. Welcome, Dr. Clapp.

Ms. STOUT. I will summarize my statement, but I would ask that my full statement be entered into the record. I also would ask that the task force report from the American Legion and Vietnam Veterans of America and the National Veterans Legal Services Project also be entered into the record of this hearing.

Mr. APPLEGATE. It is rather voluminous, but without objection, we will put it as a part of the record.

Ms. STOUT. Thank you very much, Mr. Chairman.

I would like to begin by making some comments on the presentation of Mr. Principi from the Department of Veterans Affairs. I think there were three themes of that presentation. The first is "we're sincere". I believe Mr. Principi and certainly Secretary Derwinski are very sincere in their efforts to address this very difficult issue.

As sincere as they are, they are faced with an enormous bureaucracy behind them, with many years of intransigence on the part of the Department of Veterans Affairs, people still sitting in seats on programs and chairs of various committees that haven't changed from the years when everything was denied.

The sincerity of the leadership of the Department of Veterans Affairs we do not doubt. There is a lot to overcome in order to make the decisions that have to be made to take care of our veterans.

They have asked that this committee give them a chance; don't act on this, but give them a chance to act. I would remind you that

when Secretary Derwinski decided not to appeal the Agent Orange lawsuit last May, the time line for the final rules for compensation for Agent Orange was to be November, 1989. Actually, in November of 1989, we found out that we were going to wait until the Selected Cancers Study came out before the first rules on any of the diseases associated with Agent Orange exposure would be determined.

Fortunately, the Secretary decided that non-Hodgkin's lymphoma would be compensated. It is interesting that now the Environmental Hazards Committee is now going to look at the CDC Selected Cancers Study. Based on their regulations, this is not a study that would qualify for them to make a decision on. It has no exposure study, and that is one of the criteria for them to look at studies. I am pleased that they're going to be looking at that study, but they should be looking at all the studies, including all of the studies that are in the task force report.

I would now like to talk specifically about the American Legion and VVA Scientific Task Force. This task force was undertaken by these organizations to look at all of the studies on dioxin. The studies were reviewed by the task force and they include all those that have been reviewed by the VA's Advisory Committee on Environmental Hazards, as well as about 150 studies that that committee has not looked at, for whatever reason.

Each of these independent scientists were given the same exhaustive list of studies and asked to identify any diseases for which a statistically significant association between exposure and disease could be found. This standard, as the subcommittee knows, is the same standard the VA was supposed to have used in its review of the same studies.

Given the VA's history on this issue until very recently, it should surprise no one that the independent review concluded that eight different health effects bear a statistically significant association with exposure to dioxin or other toxic agents used in Vietnam. These include non-Hodgkin's lymphoma, soft tissue sarcoma, skin disorders, including chloracne, subclinical hepatotoxic effects—you would think a nurse would know how to say these words—porphyria cutanea tarda, Hodgkin's disease, neurologic effects, and reproductive as well as developmental disorders.

Given these findings, it is not only clear enough that some version of H.R. 3004 should be approved by the House Veterans' Affairs Committee, but that this bill should be enhanced to accommodate diseases and health effects the bill currently fails to include. Moreover, the study also concludes that there may be a significant statistical association between exposure and the following diseases: leukemias, cancer of the kidneys, cancer of the kidneys, cancer of the testes, cancer of the pancreas, cancer of the stomach, cancer of the prostate, cancer of the colon, cancer of the hepatobilliary tract, cancer of the brain, psycho-social effects, immunological abnormalities, gastro-intestinal ulcer, and altered lipid metabolism.

In making these later conclusions, the task force found many indications that Agent Orange may cause these diseases, but that more studies must be conducted and reviewed before a finding of a significant statistical association can be established.

Under the circumstances, the need for further scientific studies and review engendered by the conclusions on the latter diseases strongly underlines the need for those provisions in H.R. 3004 that require an independent, non-Governmental review of the science on an ongoing basis.

In conclusion, Mr. Chairman, the legislation before you constitutes a legitimate and moderate mechanism for providing an enduring resolution to the Agent Orange issue. Importantly, it represents a solution in which veterans can place their trust. This bill should be cleared for a full Committee and full House vote.

Thank you, Mr. Chairman. That concludes our statement. We would be happy to answer questions.

[The prepared statement of Mary R. Stout appears at p. 116.]

Mr. APPLEGATE. Thank you, Mary.

Paul, do you have anything to add?

Mr. EGAN. Just one thing, Mr. Chairman. It's kind of a technical question. I assume the committee has agreed to send the task force report over to the Office of Technology Assessment; is that correct?

Mr. APPLEGATE. There's been a motion, yes.

Mr. EGAN. We have no problem, no objection to doing that. I would suggest, however, that if we're going to submit this task force to OTA review, it might be well to submit any findings of the Environmental Hazards Committee to OTA as well. It seems only fair, since the OTA does not currently review their review of the science.

Mr. EVANS. Could I make a motion to that effect, Mr. Chairman?

Mr. APPLEGATE. Yes.

Mr. EVANS. And also in the Chairman's request, the National Academy of Science review as well, as he indicated.

Mr. APPLEGATE. Without objection.

Mr. EVANS. Thank you.

Mr. JONES. Could we, once again for the record, make that as soon as possible, that this be expedited at the earliest possible time?

Mr. EVANS. I would hope we could do that, a motion that would ask OTA and the National Academy of Sciences to review the advisory committee report on NHL in particular, or any other report on other diseases that they might consider in the near future. But I'm not sure exactly how quickly we're going to get that report.

Mr. JONES. All I was suggesting is that it be as expeditious as possible.

Mr. EVANS. No objection.

Mr. APPLEGATE. Yes, I would agree with that. But I think the committee will keep a sharp eye on it and keep after them. I think it's a good idea. Thank you.

(See pp. 180 and 182.)

Mr. APPLEGATE. Okay, John.

STATEMENT OF JOHN F. SOMMER, DIRECTOR, NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION, THE AMERICAN LEGION

Mr. SOMMER. Thank you, Mr. Chairman. The American Legion thanks you for scheduling this important hearing today.

As has been mentioned, just yesterday, what we consider to be an extremely important report was released by the Agent Orange Scientific Task Force which was working with the American Legion and the Vietnam Veterans of America and the National Veterans Legal Services Project. We commend that report to the subcommittee and appreciate the fact that you will make it a part of the record.

I will not go over the findings of the task force, as they have already been covered. However, I would like to mention the fact that the task force limited its review to epidemiologic studies of exposed humans because VA's Advisory Committee on Environmental Hazards has apparently not reviewed experimental animal studies. The standard of statistical significant association was used because this is the standard used by the VA Advisory Committee.

Mr. Chairman, changing focus for a moment, we feel compelled to briefly address the collective studies of the Centers for Disease Control which were mandated by Public Law 96-151 in 1979 to the VA, taken over by CDC in 1983, expanded and eventually carried out without meeting the original intent of the law.

The recently announced Selected Cancers Study is fresh in our minds, so let us begin by stating that this project is not, and never will be, an Agent Orange study, regardless of the misleading statements that have emanated from officials of the CDC. Based on CDC's conclusion that an Agent Orange study cannot be carried out, the exposure index was deleted from the protocol of this study. However, most unfortunately, the study report refers repeatedly to Agent Orange and, together with carefully developed statements relating to the study, tend to mislead the American public, particularly Vietnam veterans and their families, into thinking that Agent Orange is not harmful.

We have discussed these studies in detail in our prepared statement, and the bottom line is that it's high time that CDC be forced to cease what has gotten to the point of appearing as a scientific "slight of hand".

With respect to H.R. 3004, the American Legion feels that this is an excellent, well-crafted bill. There are a number of provisions which would establish a mechanism under which VA would be required to determined, based on independent scientific reviews, those diseases for which disability and death benefits should be paid based upon a positive association with exposure to Agent Orange or other toxic chemicals in Vietnam.

The bill also, importantly, would establish a new subsection in section 312 of title 38 for presumption of service connection in the case of a veteran who served in Vietnam for four rare diseases. The American Legion fully supports the intent of H.R. 3004. We believe, however, that the presumption should not be limited to those diseases identified in section 4(a) of this bill. Rather, we believe that the list of diseases should be expanded to include those reflected in the Agent Orange Scientific Task Force recommendations.

We also urge that the subcommittee not wait for action by a VA advisory committee to act on this bill. Mr. Chairman, it is frustrating, for those of us who represent Vietnam veterans, to try to explain to them and their families why little or nothing is being done to determine the long-term health effects of exposure to Agent

Orange, or to compensate those who are suffering chronic disabilities which they feel are caused by exposure. The American Legion holds fast to the position that it is the responsibility of the U.S. Government to use every resource available to determine the consequences of exposure to Agent Orange on those veterans who served in Vietnam and then to adequately compensate those who are suffering from diseases and disabilities as a result of that exposure. To date, as far as we're concerned, the Government has fallen short of that responsibility.

Mr. Chairman, that concludes our summary.

[The prepared statement of John F. Sommer appears at p. 122.]

Mr. APPLEGATE. Thank you very much, John.

Let me ask you about the new study, or literature review, I guess it is, that was released yesterday. Has it been subjected to a peer review by any other scientific body?

Ms. STOUT. Perhaps Dr. Clapp could answer those questions. But this is a literature review, Mr. Chairman.

Mr. APPLEGATE. Yes.

Ms. STOUT. It is not a scientific study in and of itself. It is a review of scientific studies.

Mr. APPLEGATE. Right.

Ms. STOUT. These scientists have looked at what the studies say, on what is the statistically significant association between exposure to dioxin and certain kinds of diseases. I will let Dr. Clapp elaborate on that. I don't know if this is the kind of study that needs peer review in order to be accepted within the scientific community.

Dr. CLAPP. I would just reiterate that this is a review of already reviewed studies. So, as such, we didn't submit it separately for peer review.

Mr. SOMMER. Mr. Chairman, I would like to add to that. It came up earlier that OTA had never reviewed or peer reviewed the findings of the VA's Advisory Committee on Environmental Hazards, and as far as we know, no one else has reviewed their reviews of the studies, either.

Mr. APPLEGATE. Let me ask you this, John. Do you intend to submit the literature review to the Advisory Committee on Environmental Hazards for further consideration?

Mr. SOMMER. We will be pleased to submit the report for review by anyone who wishes to review it.

Mr. APPLEGATE. Okay. That's fine.

Mr. McEwen.

Mr. MCEWEN. Thank you, Mr. Chairman.

Do you all have some numbers on what you think the cost of this legislation would be? Have you done anything like that?

Ms. STOUT. I think the figures that we have are the figures that Congressman Evans has put forth. I think that's been done by the officials here, which was $89 million.

Mr. MCEWEN. Done by who, you say?

Mr. EVANS. The Congressional—Would the gentleman yield?

Mr. MCEWEN. I want her to complete her sentence, and then I'll be glad to yield.

Ms. STOUT. No, we have not independently done figures on how much it would cost.

Mr. MCEWEN. And the American Legion hasn't, either?

Mr. SOMMER. No, we have not, either, Mr. McEwen. Actually, there is no way to determine because we don't know what the number of cases for each of the disabilities would be.

Mr. MCEWEN. You all don't have any numbers on how many you think would be impacted by this bill?

Mr. SOMMER. We're in the process of attempting to determine, out of the 35,000 or 36,000 cases that have been filed with the Department of Veterans Affairs, a breakdown of exactly what those types of cases are. But, to my knowledge, we haven't gotten that information yet. A member of our staff has been working on that.

Mr. MCEWEN. And VVA hasn't done anything?

Ms. STOUT. No. Also, I would remind you that 250,000 veterans made claim against the Agent Orange class assistance fund. Many of those were not—you know, just basically claims. I have no idea how many of those have been granted.

But no one has a real clear picture of the number. We already, when non-Hodgkin's lymphoma was announced it would be compensated, we started getting phone calls in our office, many phone calls from veterans who had not filed claims, who just said they never filed because they knew the VA wasn't going to do anything.

Mr. MCEWEN. Did my colleague, the gentleman from Illinois, have something to add?

Mr. EVANS. I thank the gentleman for yielding.

The Congressional Budget Office has indicated that the annual cost of the legislation would be $89 million. That's an estimate, as you know. I think it's perhaps the best estimate that we can get at this time from the Congressional Budget Office.

Mr. MCEWEN. So you don't know of any veterans' organizations that have done any canvasses of their membership or anything; the only thing we have is CBO?

Mr. EVANS. The members that they would seek to claim either through the Agent Orange settlement fund or—well, I think the numbers the VA has supplied us is 36,000, people who have filed claims. That's with the VA.

Mr. MCEWEN. Thank you.

Who selected the membership of the task force?

Ms. STOUT. We started with Dr. Olson and asked him to review the literature and to do most of the work on putting it together. The rest of the task force—actually, the were selected by the American Legion, VVA, and the National Veterans Legal Service's Project from scientists that we've had contact with, recommendations that they have made of other scientists, who are experts in the field of dioxin exposure.

Mr. MCEWEN. Well, I just noticed New York, New York, New Jersey, New Jersey, Massachusetts, Massachusetts. I've got nothing against those States, but——

Ms. STOUT. We have Illinois.

Mr. MCEWEN. One Illinois, one midwesterner, Mr. Epstein.

Ms. STOUT. Some of these States have done their own studies, in Vietnam veterans in their States. Dr. Clapp was involved in the study in Massachusetts. So they have been doing studies and are very involved in looking at the literature and looking at what are

the possibilities, because they wanted to determine what they should be studying in the veterans in their States.

Mr. MCEWEN. How many reports did they review?

Ms. STOUT. Dr. Clapp.

Dr. CLAPP. I think the total number is well over 300. I don't have the exact count. It's in the various bibliographies that are at the end of the report.

Mr. MCEWEN. And how many of them were you critical of?

Dr. CLAPP. Well, again, I don't have a count of how many we were critical of. We made critical comments about a number of them in various sections of the report.

Mr. MCEWEN. It looks like quite a piece of work and I appreciate your sharing it with us today.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. McEwen.

Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

First of all, I would like to start off with a request from Congressman Lancaster to correct a statement that he made. I had asked him how much money as a result of the settlement of the private lawsuit had his one constituent, Mr. Naquin, received. His first check I think the Congressman indicated was $3,000. In fact, it was only $391.11. After his appeals, through the fund he will ultimately get $2,000 for the next 5 years. The Congressman wanted me to clarify that and would like permission to revise and extend his remarks originally.

Mr. APPLEGATE. Without objection, it shall be so.

Mr. EVANS. I would also like an article concerning this veteran included in the record at this point, if that's possible.

Mr. APPLEGATE. Without objection, sure.

[The article appears at p. 90.]

Mr. EVANS. Let me start exactly with that Agent Orange settlement fund. I think it's a source of great confusion among veterans, among the population, on just how helpful this private settlement will be.

Would it not be a fact that most veterans will be receiving a total amount of money in the range of $1,500 to $2,000 as a result of being part of that class action suit? John?

Mr. SOMMER. Yes, Mr. Evans. I believe that's at a maximum. Not every veteran would receive that amount.

And while you're addressing that issue, I feel compelled to add that, unfortunately, in the minds of a lot of people, including people who work for the Federal Government, the settlement was the end to the Agent Orange problem. Unfortunately, that's an opinion that is shared by a number of people. I think it's important that they be made known that the door has not been closed on this issue.

Mr. EVANS. I view it as a governmental responsibility. I am pleased that these veterans have brought a private lawsuit, but they weren't in Vietnam because of the request of a chemical company. They were there because they were ordered to by the U.S. Government. But even in the case of this individual constituent, who has taken it a step beyond what probably an average claimant would receive, I suppose he is getting about $10,391.11 for being

practically 100 percent disabled. This is a veteran, by the way, of World War II and Korea, in the Marines and the Army. I just don't think that's the kind of treatment that we should hold out to the veterans of our country.

I would like to focus a few things on the report itself and why it was started because I think there is some concern.

Why was it that the American Legion and VVA joined together and felt they had to get some kind of independent review of the scientific literature and studies? What was your motivation, I guess is what some people would ask.

Mr. SOMMER. Mr. Evans, we obviously have been working independently for a number of years, both organizations, in attempting to resolve the questions surrounding the issue of Agent Orange. There have been a lot of problems. If you recall, the first law was enacted in 1979. I believe it was signed on December 20, Public Law 96-151, which mandated the VA to carry out a study. And after a lot of foot dragging and nothing happening, in January of 1983 the Centers for Disease Control took over the study and expanded it from one to three studies. And then, after running into a lot of methodological and administrative problems in the mid-1970's, in about 1976 or 1977, CDC concluded they could not do an Agent Orange study.

In 1984, Congress enacted the law that allowed the Department of Veterans Affairs to create an advisory committee to come up with diseases that are felt to be caused as a result of Agent Orange exposure. As of this time, they have done nothing. So it is frustrating, as I mentioned in my statement, for those of us who represent Vietnam veterans, to try to provide answers when the Government is dragging its feet in carrying out its responsibilities.

Ms. STOUT. I would also like to add, Mr. Evans, that the House Veterans' Affairs Committee I think has had now 18 hearings on the issue of Agent Orange, and primarily you have heard only from the Government witnesses. You have heard only from the CDC, and you've heard only from the Ranch Hand study.

There are numerous other studies and numerous other scientists out there who have done studies on Agent Orange and the ingredients in Agent Orange. Granted, it's not Vietnam veterans. Nobody has done a study on the exposure of Vietnam veterans and the illnesses that have resulted, other than some of the State studies that have been done. So we felt it was important that members of this committee, Members of Congress, understand that there is a large body of literature. We knew that because we've heard it from scientists for a number of years. There is a large body of literature that does, in fact, support the statistically significant association of the increased risk for many of these diseases with exposure to dioxin and the phenoxy herbicides.

Mr. EVANS. How much did you pay for this study, the scientific task force?

Ms. STOUT. The only thing that was paid, Dr. Olson was paid a small fee. I'm not sure of the exact figure. I think it was something like $5,000.

Mr. EVANS. Most of the professionals serve voluntarily?

Ms. STOUT. They all serve voluntarily, yes.

Mr. EVANS. Like Dr. Epstein came out without even his plane fare being paid, I understand.

Now, some of the estimates of what we have spent studying Agent Orange through the CDC, through the VA, have been as much as $60 to $100 million; is that correct?

Ms. STOUT. That's correct.

Mr. EVANS. What do you think you could have done with $100 million?

Mr. SOMMER. The American Legion carried out a study for less than $100,000, along with Drs. Jeanne and Steve Stellman.

Mr. EVANS. All right.

Ms. STOUT. We could have used it for compensation.

Mr. EVANS. Exactly, correct.

Mr. Egan.

Mr. EGAN. Just to respond to your first question, which is why this was done, Mary gave a summary of our statement and said that the VA's testimony today had three basic messages: trust us, take no action, and give us a little more time.

And while we do trust the leadership of the VA at this particular point in time, the other two messages—take no action and give us a little more time—is really the same song and dance we've heard for the last 11 years.

Mr. EVANS. Mr. Chairman, I would like to get a second round, if I could, and I will yield back right now so that my colleagues can ask questions.

Mr. APPLEGATE. As far as the cost of the studies, I know what that is. We have one now on acid rain that's been going on for 10 years, and it cost the taxpayers $600 million. And they threw it out the window.

Mr. Jones.

Mr. JONES. Thank you, Mr. Chairman.

Mr. Sommer commented on the CDC Selected Cancers Study. I realize this was not part of the task force's official report. But has the task force, or any of its members, to your knowledge, Dr. Clapp, considered that report? Do you have opinions on it? I would also like to hear from Miss Stout on that.

Dr. CLAPP. Yes, we have considered that report. I think all of the members of the task force have not had a chance to review it, however. I have. I attended a briefing by staff from the CDC about a month ago here in Washington. I asked a series of questions of them at that time, read carefully their report and reanalyzed some of the tables in their report. There is some language in the task force report that deals with that. So some of us have read it and are quite familiar with it and have spoken with the principal investigator.

Mr. JONES. Would you care to comment on that methodology?

Dr. CLAPP. Well, I think the basic methodology of what is called a case control study is a sound methodology. There were limitations in how they carried it out in that instance, however. I believe the principal investigator said they had $10 million allocated for that study, and in that, they intended to take tissue samples, either blood or fat biopsies, to determine levels of dioxin in either sample. Very early on in the study they decided that that was not feasible, that the access of the patients would not be granted by the treating

physicians in enough cases to make it a representative picture of the dioxin levels in the patients or their controls.

So although the design of the study made sense, and it is, when you're studying rare diseases such as soft tissue sarcoma or non-Hodgkin's lymphoma, that is usually the preferred method. You interview those cases, and then other people who are like cases but without the disease, to see if there's any difference on where they served, how long they may have served, in what branch of service they were in, and that kind of thing.

So I would give a mixed review as to the soundness of the study. It was a valid design, but I think it was improperly carried out and incompletely carried.

I also disagree with their interpretation of the results. I believe the tables that they present in their report, even though they say, overall, Vietnam service seems to be associated with non-Hodgkin's lymphoma, they do not go so far as to say there is evidence in their report that Agent Orange might have been the cause of the increased non-Hodgkin's lymphoma. I think there is evidence in their report to that effect, and that's because veterans who were classified as having served in I Corps had very high rates of non-Hodgkin's lymphoma compared to other vets. Those who served in III Corps did not.

The CDC authors chose to emphasize the III Corps finding and not the I Corps finding. I think each is an equally valid way of looking at the data, and when they're combined, I believe there is a statistically significant increase in those veterans. That is weight in support of the argument that Agent Orange might be the cause.

Mr. JONES. Thank you.

Miss Stout.

Ms. STOUT. You wanted me to comment on our feelings about the Selected Cancers Study, and I think Dr. Clapp has summed it up. We think in many ways the study was very helpful. In fact, it gave the ammunition to the Secretary to be able to say we do need to compensate non-Hodgkin's lymphoma even with the weight of much other information and scientific studies that we felt certainly show that non-Hodgkin's lymphoma was related to Agent Orange exposure for Vietnam veterans.

I think our biggest problem with the CDC study, beyond some problems on the technical end of it—which we're not scientists and that's why we rely on people like Dr. Clapp to keep us informed about these things—is the presentation that, in fact, the study says we don't know why veterans have this significant increase in non-Hodgkin's lymphoma. We're very sure it's valid, that there is a significant increase; we don't know what caused it, but we're sure it's not Agent Orange. Based on what Dr. Clapp just said about the way the figures are put together, that said to a lot of veterans that the Government is going to do nothing, absolutely nothing, because we have primarily relied, that this committee has primarily relied on the CDC study to form the basis of your decisions about whether are we going to compensate and when aren't we going to compensate.

Mr. JONES. Thank you, Mr. Chairman.

Thank you very much.

Mr. APPLEGATE. Thank you, Mr. Jones.

Mr. Geren.

Mr. GEREN. Thank you, Mr. Chairman.

I am anxious to read this report. I haven't had a chance yet to do it. But is there an effort, when a veteran demonstrates symptoms of one of the diseases, in attempting to get service connection, to encourage that veteran to have a blood study done to determine if there is a presence of dioxin in the blood? It would seem to me that one question I would ask, looking at it purely as an uninformed lay person, would be that we have tens of thousands of veterans who are complaining of these symptoms.

Do any of the organizations, or any of the health organizations, encourage them to have their blood tested to determine if dioxin is present, and if that is the case, is there a record of the results of those tests?

Mr. SOMMER. Mr. Geren, to our knowledge, no one has ever requested that. The Department of Veterans Affairs does not request that type of evidence because of the fact that they do not recognize the diseases. None of the diseases that we're talking about today are included in title 38 with a presumption for service connection.

In addition to that—I'm sure Dr. Clapp can answer this question better than I—but I understand the testing methodology for measuring dioxin in the blood is a very expensive procedure.

Dr. CLAPP. If I might, I could add to that. In Massachusetts, the Office of Veterans Services, which is a State agency in Massachusetts government, did request veterans to submit fat and blood samples for analysis by an independent laboratory in Iowa. Each analysis cost $1,000. So it was to verify that the fat levels and the blood levels would be similar on the same patient, on the same volunteer.

One of the volunteers in that group—there were only 50—but one of the volunteers was a patient with soft tissue sarcoma, very similar actually in his story to that of Mr. Maier this morning. He had had his arm amputated. I had met him when he was at Massachusetts General Hospital being treated. This was shortly after his diagnosis and after he had had his arm amputated. He had no fat at that time he was in the hospital. He was complaining about the food, as a matter of fact. So he was thin as a rail.

Then 3 years later, he submitted what he then had as fat as biopsy material for this special study funded by the Office of Veterans Services, and there was no dioxin detectable in this fat at that time. This is a patient who had already had a serious disease, had been very sick, and had lost, as far as I could tell, all of his fat, and subsequently had regained some fat so that he could be part of a later biopsy study. There was none detectable.

So I think in his case—and he has no doubt and I have no doubt—that he was exposed to Agent Orange in Vietnam. He has a picture of himself in Vietnam leaning on a barrel, an orange barrel. It was part of his job to be around spraying. So I have no doubt about his situation, but it wasn't detectable in his case in his fat or his blood.

Mr. GEREN. So there is no large study at all that records the blood tests that have been done?

Dr. CLAPP. No, there is no single large study. There have been a number of small studies. The New Jersey Pointman study is one,

and people from the New Jersey Agent Orange Commission have already spoken about that. In Massachusetts there was this one, and CDC has done one. But they're all samples. There is no single large repository.

Mr. GEREN. Thank you.

Ms. STOUT. I think, Mr. Geren, the value of doing blood samples and fat tissue samples for studies is that, if we can find exposed Vietnam veterans who have an increased level beyond what is normal, if we can find them with increased levels, and then study them to see if they have specific illnesses that still retain an increased level of dioxin. However, with the half-life of dioxin and the variances in people's metabolism, we can't say that a person who has an illness was not exposed simply because they don't show an increase in dioxin level, like Dr. Clapp just explained.

So using that as an exposure index to say, if you have an increased level and you have this disease, then we'll compensate you, we feel is unfair to those veterans who, in fact, like this one may have lost all of his fat and may have in some way or another purged dioxin out of his system, or it may be so long that he was exposed that he has the same level as a normal background level because of the half-life. So it's very difficult to use that and should not be used, I think, in fairness to veterans as part of making a determination about compensation.

Mr. GEREN. I appreciate the testimony and I have no further questions, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Geren.

I believe that counsel has a question.

Mr. BRIZZI. Thank you, Mr. Chairman.

John, I just wanted to clarify one point for the record. You may or may not recall this testimony. But on May 3, 1983, you testified that the American Legion was "extremely pleased that the Centers for Disease Control had taken over responsibility of the study." I just wanted to get for the record why the American Legion apparently had become disillusioned and changed its position regarding the CDC.

Mr. SOMMER. First let me mention, Mr. Counsel, that the American Legion, from the time Public Law 96-151 was enacted, had urged—we were pleased that the study had been mandated, but we urged that it be moved from the Department of Veterans Affairs to an independent, scientific agency, for several reasons. Number one, we——

Mr. BRIZZI. Would the gentleman yield for one moment? It seems to me that in the same testimony you also indicated that you were very pleased that the CDC was, in fact, a scientific agency that is independent of the VA. Is that correct?

Mr. SOMMER. That's correct, and we were pleased at that time in 1983. We were pleased that the Centers for Disease Control came around, visited the service organizations, sought our concerns and input relative to the studies.

However, in about 1985, the study started unraveling. As I mentioned earlier, there were methodological and administrative problems. They went through a whole series of study directors. They began working outside of the protocol that was originally approved by the Office of Technology Assessment. They began taking pot

shots at the environmental support group and a whole number of things that caused OTA to call the study to a halt.

It was at that point in time that CDC decided to do their validation study and they concluded that a study could not be done.

Mr. BRIZZI. Okay. Just to recap, then, it really wasn't the fact that they were not independent, but you just didn't believe they were pursuing the right methodology and manner in which they were proceeding, is that it?

Mr. SOMMER. That's correct. Initially, back in May of 1983, which you pinpointed, we were pleased, because as I started to say, we had urged the Congress to move this study to an independent scientific agency away from the VA, for a number of reasons.

Mr. BRIZZI. Thank you very much, Mr. Chairman.

Mr. APPLEGATE. Thank you, John.

I believe that minority counsel has a question.

Mr. KINGSTON SMITH. Thank you, Mr. Chairman.

Dr. Clapp, you mentioned a study done in Massachusetts in which blood and fat samples were analyzed.

Dr. CLAPP. Yes.

Mr. KINGSTON SMITH. Could you tell the committee more about that study and, if you could, provide the committee with the study?

Dr. CLAPP. It's in the list of references in the task force report. Actually, there are two references to the same study.

It was funded by the State of Massachusetts, with funds that were allocated to the Office of the Commissioner of Veterans Services, at the request and recommendation of a medical scientific advisory committee, of which I was a member, and Dr. John Constable was also a member. It was done in conjunction also with a Dr. Arnold Schecter, who has been doing studies of dioxin and PCB exposed people in other parts of the U.S. and actually Vietnam.

The purpose of the study was to validate the blood test primarily as a method of determining dioxin levels in a human being. It's results were addressing that issue. It was volunteers who were recruited with a special emphasis on those who may well have been exposed to high levels of dioxin.

Mr. KINGSTON SMITH. What were the results of the tests of blood and fat samples?

Dr. CLAPP. That the two methods did correlate quite well, that the levels that were found in people with high fat levels were also similarly in the blood samples.

Mr. KINGSTON SMITH. How was this group of veterans that submitted the samples selected? Were they Ranch Hands or selected on some other basis?

Dr. CLAPP. Again, they were recruited through the Office of the Commissioner of Veterans Services. Among other things, it has a hot line for veterans, and many veterans had filled out a questionnaire describing their health effects and——

Mr. KINGSTON SMITH. So some were just volunteers that were reached through outreach?

Dr. CLAPP. Yes, mostly who had already contacted the Office of Veterans Services. I think there may have been additional outreach.

Mr. KINGSTON SMITH. Were many found that had high levels of dioxin in their blood?

Dr. CLAPP. There were some who had high levels. I spoke to one who had—this is in parts per trillion. I think he had 53 parts per trillion in his fat, and something like that equivalent in his blood.

Mr. KINGSTON SMITH. What did he believe his means of exposure was?

Dr. CLAPP. Well, he was a Marine. He was on the ground in a lot of places where there had been spraying.

Mr. KINGSTON SMITH. Did he have any adverse health effects?

Dr. CLAPP. Not at that time. He is a worried well veteran, though.

Mr. KINGSTON SMITH. I understand. Well, you say the study is identified in the survey?

Dr. CLAPP. Yes. It's coauthored by Drs. Constable, Schecter, and a few others.

Mr. KINGSTON SMITH. The role of the half-life of dioxin is a thorny issue because of differences in views, I think, about what the effect of no presence at all in the blood or a very low level in the blood would signify. Could you comment further on that?

Dr. CLAPP. What the presence of no level might signify?

Mr. KINGSTON SMITH. Or a level that would normally be associated with background levels of say, ten parts per trillion.

Dr. CLAPP. I think there is a background of something in the range of ten parts per trillion in anyone in this country, so there will always be some level, unless there's lab error or a rare individual who hasn't breathed the air in this country.

I think that Ms. Stout and I have said previously that it's an unfair test to require that there be a level measurable above background before a veteran is eligible for compensation, because of the fact that it depends on what happens to you since exposure and what has happened to your fat level. People who have gotten sick and have lost a lot of weight, and then have gained it back, may well have had dioxin in measurable levels above background levels in their fat prior to getting sick, and then it will be mobilized as part of the sickness and no longer be present later on.

Again, I know that the exact half-life is not quantified at this point. We do address that at one point in the task force report. So there are dynamics within individual bodies that are hard to predict, that will change the half-life for one individual as compared to another.

Mr. KINGSTON SMITH. One further question.

There is a rule of thumb, although it is not scientifically established, it is my understanding, that exposure over 20 parts per trillion begins to be significant. Do you accept that as a rule of thumb?

Dr. CLAPP. I don't use that particularly as a rule of thumb, one way or the other.

Mr. KINGSTON SMITH. Thank you, sir.

Mr. APPLEGATE. Okay. Thank you very much, and thanks to the panel for appearing before the committee.

I'm sorry, Mr. Evans.

Mr. EVANS. Could I get another round?

Mr. APPLEGATE. Oh, yes. Mr. Evans wants a second round.

Mr. EVANS. I ask your indulgence in having another chance. I know you and the ranking Republican member have been here for some time, but I would like to ask just a few additional questions.

First of all, let me go back to this position of the CDC. I wasn't in Congress when the committee and the Senate committee decided that they had waited long enough for the VA to take significant action on Agent Orange. That was the motivation for Congress switching from the VA to CDC. I guess that was supported by your organization in terms of that switch at that time, as I think it was for all of us in the veterans' community, because that really was part and parcel of the problems we had been having with the Department of Veterans Affairs on this entire problem.

Is that your position essentially?

Mr. SOMMER. That's true. In addition to that, we also had a couple of other concerns. As I mentioned, we began, immediately after the law was passed mandating the VA to carry out the study, to request Congress to transfer the study to an independent scientific agency.

One reason was because we felt that Vietnam veterans would look suspiciously upon results of a study that was carried out by an agency of the Federal Government that is charged with administering the benefits and——

Mr. EVANS. And at that time that was the CDC. I don't mean to make this a pun or a joke, but they had done a pretty good job on Legionnaires' disease, as I recall.

Mr. SOMMER. That's correct.

Mr. EVANS. You had every hope and faith that they would do such a good job on Agent Orange, I take it, at the time?

Mr. SOMMER. We felt that the Centers for Disease Control was a prestigious research organization.

Mr. EVANS. And you came to change your opinion somewhat?

Mr. SOMMER. Well, we have certainly changed our opinion with respect to the division of CDC that has been carrying out the Agent Orange studies.

Mr. EVANS. Thank you.

Dr. Clapp, let me see if I can get you to summarize what this study means. As I understand it, basically there are three categories that illnesses that might be associated with Agent Orange exposure fall into. First, I guess, those in which the aggregate interpretation of several sound studies show a statistically significant association for each of these conditions, correct?

Dr. CLAPP. That's correct.

Mr. EVANS. And you found five of those, three of which are in my legislation?

Dr. CLAPP. Right.

Mr. EVANS. Then you have a second category, correct, for which there are sound scientific studies showing statistical significance and strong scientific evidence of an association between exposure and effect, but a statistically significant association is not as consistently supported for these effects as the first group that I characterized?

Dr. CLAPP. That's right.

Mr. EVANS. And could you briefly describe what those illnesses are? I understand there are three broad areas. Your Latin may be better than mine, even though I'm an old alter boy. But could you give us kind of a layman's description perhaps of what those illnesses might be in that second category?

Dr. CLAPP. Well, a lot of those are also different types of cancer. I'll speak about one in particular, kidney cancer. There are studies, and I had done one in Massachusetts, where we did find a statistically significant elevation of kidney cancer in Vietnam vets compared to other veterans. In other studies of veterans, that was not found. So although there are valid studies that do show a significant association of kidney cancer with service in Vietnam, it isn't found in all the studies, or even in perhaps a majority of the studies.

Using the criterion which I think the VA is now required to use, the evidence of a valid association is at least as strong as the evidence that there is no valid association. I would include kidney cancer in that group. Whereas with the first group that you mentioned, I think the evidence is overwhelming.

Mr. EVANS. So this group would include Hodgkin's disease, neurological effects, reproductive and developmental problems?

Dr. CLAPP. That's right.

Mr. EVANS. So you might say the scientific evidence shows that there is a significant statistical association that is at least as likely as not to exist, you might say, in accordance with what we look to in the Federal law?

Dr. CLAPP. Right.

Let me correct that. The kidney cancer example I gave you was one in the third group. Hodgkin's disease, I should have chose Hodgkin's disease as the cancer in the second group, where again there have been sound studies. One was the Vietnam veterans in West Virginia who had significantly elevated Hodgkin's disease, and yet that is not found in all studies. It has been found in several nonveteran studies as well.

Then the third group is those for which there may be an association, but the evidence in the number of studies that we were able to review is just not sufficient to come to a final recommendation on that.

Mr. EVANS. As professionals, though, you're recommending that we take a look at compensating those veterans, even if they fall into that third category of illness victims, simply because you think there may be evidence that would justify helping them without waiting for a total scientific conclusion on those specific illnesses?

Dr. CLAPP. Well, I don't think I can speak for the task force on that. I think I can speak for the task force on the first two categories. In the third category, we probably would not be speaking as professionals but as concerned human beings, wanting to give the benefit of the doubt, as has been said here many times, to the veterans who served their country.

Mr. EVANS. One final question to both the leaders of our veterans' organizations.

We have been asked to hold this legislation in abeyance basically so that the VA can continue with its rulemaking process, which I agree with you all has been conducted, I think, in good faith and with new direction from the Secretary. But it only does focus on the non-Hodgkin's lymphoma issue at this point. They may be considering other issues in the future.

What are your members telling you? Should we wait in Congress until we get more evidence, more rulemaking, or what should we

do? Should we move on this legislation in this Congress, I guess is what I'm asking?

Mr. SOMMER. So far as the American Legion is concerned, we would rather that the subcommittee and the committee and the full House move on it immediately, rather than waiting for additional studies by the VA's Advisory Committee on Environmental Hazards.

Ms. STOUT. We have voted on this issue at our convention last summer and we had unanimous support for this legislation and for Congress to move forward with it.

Mr. EVANS. Thank you.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Evans.

Mr. McEwen.

Mr. MCEWEN. Thank you.

John, how many Vietnam-era veterans are members of the American Legion?

Mr. SOMMER. Right around a million.

Mr. MCEWEN. Thank you very much.

Mr. APPLEGATE. How many members are in The Legion right now?

Mr. SOMMER. Three point two million, I believe it is.

Mr. APPLEGATE. What's the membership, Mary, of your organization?

Ms. STOUT. About 47,000, as of today. We're in renewal, so we might drop a little bit for a couple of months.

Mr. APPLEGATE. So it's 47,000.

Ms. STOUT. It has doubled in the last 4 years.

Mr. APPLEGATE. Well, if there are no other questions, I thank you very much for coming before the committee and giving us your testimony and answering questions.

Mr. SOMMER. Thank you, Mr. Chairman.

Ms. STOUT. Thank you very much.

Mr. APPLEGATE. The third panel will consist of John Bollinger with the PVA, Dave Gorman with the DAV, and Larry Rivers with the VFW. Gentlemen, welcome to the committee. You've been sitting a good while waiting patiently, and we appreciate that.

I will call upon John first since I called his name first.

STATEMENT OF JOHN C. BOLLINGER, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. BOLLINGER. Mr. Chairman, thank you for inviting PVA to testify today. We wish to commend you for holding this very important hearing.

The debate on Agent Orange has been a long ordeal for everyone, and certainly any new evidence or new legislation must be carefully reviewed and thoughtfully considered by all of us in the veteran community. We wish to especially commend Representative Lane Evans. His deep concern for the well-being of Vietnam veterans is surpassed by no one, we believe.

The efforts of many to establish a concrete link between exposure to Agent Orange and certain diseases have met with extreme frustration. Over the years we have shared that frustration, hoping

on the one hand to find a scientific link which would definitively justify what are presently compassionate responses to the lack of hard scientific data, and on the other hand, feeling a sense of relief, knowing that the vast majority of epidemiological evidence to date does not indicate a cause-effect relationship between Agent Orange and certain diseases.

We have not had the opportunity to review the task force study that was released yesterday, but we look forward to doing that and we will review it in detail.

Mr. Chairman, although PVA has strongly supported certain aspects of Agent Orange legislation over the years, including the studies and reporting mechanisms in H.R. 3004, we continue to be unable to support legislation which would provide compensation for disabilities which are perceived as being related to exposure to Agent Orange or similar defoliants.

The real bottom line, Mr. Chairman, is that modern science, for all its efforts, simply has not shown that exposure to Agent Orange causes the diseases for which H.R. 3004 provides service-connected compensation. With the exception of chloracne, where in our opinion there is a clear manifestation of direct exposure to Agent Orange or other similar defoliants, we just do not believe in good conscience that service connection for other disabilities can be justified.

Vietnam veterans in a combat situation over a period of months or years in a tropical environment were exposed to a multitude of potentially harmful experiences and agents which can carry with them long-term effects. Likewise, exposure to a tropical environment brings contact with a host of organisms and parasites completely unfamiliar to western human physiology and medicine, not to mention the insecticides, chemicals, and drugs aimed at combatting those agents to keep troops fighting in the field.

As in the past, we believe one of the most consistently troubling aspects of attempting to solve the Agent Orange dilemma is the concept of providing service connection for disabilities that can be extrapolated to the entire Vietnam veteran population as a result of exposure to dioxin and other toxic agents in herbicides used in Vietnam. As we stated before, the only way we can solve the Agent Orange question, we believe, other than through new scientific evidence, is to look not just at Agent Orange specifically but at the Vietnam experience as a whole. If then there are disabilities which appear at statistically significant levels for the entire Vietnam population, and if the science of the epidemiological study is sound, we would proceed to authorize disability compensation for such disabilities, much in the same manner as Secretary Derwinski has recently done with NHL.

Mr. Chairman, we see every day, and we understand well, the pain and suffering that the long-term consequences of catastrophic, life-threatening disabilities can bring. We know what effects disabilities can have on individual veterans and their families. We are advocates for the veteran. We strongly believe the Government has a definitive obligation to make restitution and care for those who have served in defense of this Nation.

We have the deepest concern for those Vietnam veterans who currently suffer debilitating and life-threatening diseases from un-

known causes which they suspect to be associated with Agent Orange. We also know it is natural, even necessary, as part of dealing every day with such disabilities and diseases, to try and understand why certain things happen to us. If the answers are unclear, we will, nevertheless, find explanations, medically valid or not.

Mr. Chairman, we sincerely believe that, by supporting the presumptive features of Agent Orange legislation, we would only be confirming and promoting a suspicion, while providing no true definitive answer to the Agent Orange question or health concerns of Vietnam veterans. We look forward to reviewing the task force's recent study and, once again, our utmost respect and thanks to Representative Lane Evans for his deep concern for Vietnam veterans.

Thank you.

[The prepared statement of John C. Bollinger appears at p. 133.]

Mr. APPLEGATE. Thank you very much, John.

Mr. Gorman.

STATEMENT OF DAVID W. GORMAN, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR FOR MEDICAL AFFAIRS, DISABLED AMERICAN VETERANS

Mr. GORMAN. Thank you, Mr. Chairman.

As those who have come before me this morning, I would also like to thank you, Mr. Chairman, for the timely conduct and scheduling of these hearings, and also to Congressman Evans, the prime architect of this measure, who has been a staunch supporter and outspoken advocate for Vietnam veterans.

Mr. Chairman, our written testimony has been submitted and is a matter of record. Therefore, I will try to keep my remarks as brief as possible this morning.

We support section 3 of H.R. 3004, proposing to grant service connection on a presumptive basis for chloracne, if manifested within 1 year after the last date on which the veteran served in Vietnam.

Section 4 proposes to extend presumptive service connection for non-Hodgkin's lymphoma, soft tissue sarcoma, and melanoma and basal cell carcinoma. As we are all aware, Mr. Chairman, and as we've heard testimony this morning, Secretary Derwinski has stated that service connection for non-Hodgkin's lymphoma will be extended to Vietnam veterans based on the conclusions reached by the Centers for Disease Control's recently released Selected Cancer Study. We not only concur in but we applaud Secretary Derwinski's decision in that regard.

However, because we continue to feel that there exists a paucity of scientific evidence to establish a reasonable relationship to Agent Orange and other carcinomas, we are not now able to support the provision of section 4. We do, however, look forward to reviewing the recently released evidence in the form of the review of scientific literature by the American Legion and VVA that's been testified to this morning.

Mr. Chairman, we are also supportive of the intent of section 5, proposing to create a procedure requiring the VA, via contract with the National Academy of Sciences, to identify and determine, based on a review of the available scientific literature, specific dis-

eases that may be reasonably associated with exposure to Agent Orange.

We agree with the intent of section 6. It is our belief that analyzing examinations and treatment records and results of certain veterans may, indeed, prove beneficial and aid in the search for answers to the Agent Orange issue.

Mr. Chairman, we also support sections 7 and 8, proposing the establishment of an archiving system and the funding of pilot research studies.

We are very much in agreement with section 9, requiring the VA to keep Vietnam veterans fully informed by providing current information regarding Agent Orange developments.

Finally, Mr. Chairman, we suggest, with reference to the issue of medical care, that the subcommittee broaden their view of that issue and consider the issue of outpatient care. As we have heard this morning from the gentleman from Ohio, regarding the difficulties he apparently has had in receiving medical care and a prosthesis from the Department of Veterans Affairs, we believe the VA should be mandated to provide such care to all Category A veterans, including, of course, those veterans exposed to Agent Orange.

That concludes my remarks, Mr. Chairman. Thank you.

[The prepared statement of David W. Gorman appears at p. 136.]

Mr. APPLEGATE. Thank you, Mr. Gorman.

Mr. Rivers.

STATEMENT OF LARRY W. RIVERS, EXECUTIVE DIRECTOR, WASHINGTON OFFICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

Mr. RIVERS. Thank you, Mr. Chairman. Let me thank the Chairman and the committee for holding the hearings as well, and join with my colleagues in expressing our sincere appreciation to Lane Evans for the good work that he continues to do for Vietnam veterans and, indeed, all veterans.

Let me begin, Mr. Chairman, by pointing out that the VFW has once again established as a priority goal the resolution of the Agent Orange issue, and among our 2.2 million members, we are certainly proud of the 600,000 Vietnam veterans that we count among our ranks.

More than 10 years have now passed since public attention first focused on the health effects and dangers caused by exposure to toxins present in certain defoliants and extensively used in the Vietnam war. Over these years, my fellow Vietnam veterans and I have patiently waited for answers to our questions. It seems that, instead of answers, we are continually given conflicting reports and endless delay. It seems to us that in the herbicide exposure issue much time and millions of dollars have been spent pursuing perfect understanding predicated upon scientific certainty. Unfortunately, in this area, as in others, in this complex and changing world, scientific certainty continues to elude us.

There are those who continue to ask where is the absolute proof and where is that scientific certainty. Perhaps at this point there is no scientific proof, and perhaps at this point no scientific certainty, but the search for truth must continue. And while the search for

this truth goes on, the VFW cannot understand why we fail to show true compassion for seriously ill veterans awaiting answers that may be years in coming.

In a way similar to H.R. 3004, numerous pieces of legislation have been introduced addressing the Agent Orange issue, and many of these bills contain provisions allowing for presumptive disabilities. The VFW advocates liberalizing the criteria needed for the favorable disposition of herbicide-related disability claims. We certainly realize that when presumptive disabilities are allowed, the Government must set aside certain rules of evidentiary development in favor of a more compassionate method of establishing service connection.

In our opinion, this is the preferred method. It is a good, common sense approach to a difficult problem. We think if there is substantial evidence supporting a veteran's claim, it should be granted. We think the burden of proof, when adjudicating Agent Orange claims, should be placed on the VA, not the veteran.

We are in support of H.R. 3004. We think this bill cuts through the uncertainty and seemingly endless delays by adding soft tissue sarcoma as well as basal cell carcinoma to those disabilities already acknowledged by the VA as having their roots in Vietnam service. Additionally, we think the bill would provide the means for adding additional disabilities to the list of diseases once additional evidence becomes available.

The time to proceed in a strong and positive fashion on the herbicide exposure issue is long overdue. To those who say that the lack of scientific certainty argues against providing VA compensation for certain Agent Orange related disabilities, I can only say that this is not the first time that common sense understanding has proceeded in advance of the empirical method with respect to establishing the truth.

It seems to me that it took at least 20 years before the scientific community reached any form of consensus on the deleterious effects of-what is now acknowledged to be the number one preventable cause of death in this country. Of course, I'm referring to tobacco. In the view of the VFW, the same holds true of the deadly toxins which were present in the millions of gallons of herbicides used in Vietnam. We believe that 1 day scientists will affirm what many veterans already know: herbicides are quite capable and quite likely to produce a range of serious disabilities and even death. We believe the time to act is now.

Thank you, Mr. Chairman. That completes my statement.

[The prepared statement of Larry W. Rivers appears at p. 141.]

Mr. APPLEGATE. Thank you very much, Larry.

Let me just ask, as far as the DAV is concerned, whether or not you are supporting enactment of the bill. Do you support it in its present form, or do you support any portions or the concepts of what is contained within it?

Mr. GORMAN. As our written testimony will indicate, Mr. Chairman, and my remarks, the only portion of the measure that we are not in favor of at this particular time are those provisions in section 4 relating to the presumptions for service connection for soft tissue sarcoma, melanoma, and basal cell carcinoma. The rest of the measure we are in support of.

Mr. APPLEGATE. And the reasons for that?

Mr. GORMAN. We simply don't feel that there is a significant degree of scientific evidence accumulated that provides a reasonable basis to allow service connection be granted for those presumptions. We have heard testimony this morning that there has been a lot of evidence out there and there's been a lot of interpretations of the various evidence. We think a reasonable measure and a reasonable way to go is a review as proposed in this measure of the scientific literature by an outside entity other than the VA and the CDC, to try to gain those answers.

Mr. APPLEGATE. Thank you.

Mr. McEwen.

Mr. MCEWEN. No questions, Mr. Chairman.

Mr. APPLEGATE. Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

First let me thank you all for your kind remarks. I know you have learned some lessons from some of our colleagues. Even when you disagree with them, you say nice things about them. I do appreciate that, and I recognize all the contributions of your veterans' organizations. I am particularly appreciative, of course, of the VFW's support of the legislation strongly and look forward to working with you. So I guess my questions will be directed more or less to the DAV and PVA.

Mr. Gorman, I know that you feel at this time that there isn't the wealth of scientific evidence to convince your organization that we should pass this legislation as far as the compensation component is concerned. I don't know if you've had a chance to look at the American Legion's and the VVA's Agent Orange scientific task force report.

Mr. GORMAN. We have not, Mr. Evans.

Mr. EVANS. If we could get you a copy, I would ask that perhaps you would give us a formal response in terms of that.

Mr. GORMAN. I would be pleased to.

Mr. EVANS. You have supported other portions of the bill itself, and I guess my question is, could we assume that your organization would not stand in the way of a bill, even though it provides compensation for diseases that you may feel we don't have concrete scientific proof of, in terms of their connection to Agent Orange exposure? Would the DAV take a rock-solid, hard position against passage of this legislation at this time?

Mr. GORMAN. No. As I say, the only thing that we are not in agreement with right now—and that's absent a review of the VVA and American Legion report—are those provisions contained in the presumptive proposals.

Mr. EVANS. I would like to get you a copy of that and then try to get some response from your organization for the record.

Mr. GORMAN. We would be pleased to.

Mr. EVANS. John, thank you also for testifying. But in your statement you express "relief knowing that the vast majority of epidemiological evidence to date does not indicate a cause-effect relationship between Agent Orange and certain diseases." That cause-effect language disturbs me a little bit.

Are you fully mindful of the fact that a cause-effect relationship between exposure and a disease is unnecessary in providing veterans with the benefit of a doubt on disability claims?

Mr. BOLLINGER. Yes, I'm certainly aware of that. But I think when we look at all the presumptive disabilities—and I was very active in helping to implement Public Law 97-37, the former Prisoners of War Act—and some of the other presumptive disabilities, when we study those, and when our medical people at PVA look at them, we definitely see a difference in what we believe is significant evidence in these cases.

When you're talking specifically about Agent Orange and the other defoliants and these diseases, which you have included in the legislation, we simply don't believe that the evidence is there in a sufficient amount to provide service-connected compensation for those disabilities.

Mr. EVANS. I guess my problem is that you use "cause-effect" terminology in your position. I don't know if we're ever going to get that to the satisfaction of——

Mr. BOLLINGER. I don't know whether we are, either, Mr. Evans. Quite frankly, I don't know whether we will ever get that scientifically established. That's one reason why we believe a potential solution to the Agent Orange question is to look at the Vietnam experience as a whole, to look at disabilities which are statistically significant in that whole experience.

Mr. EVANS. It disturbs me because, essentially, this cause-effect standard is the same standard that continues to allow the American Tobacco Institute, for example, to say that cigarette smoking is harmless to anyone's health. I appreciate your elaboration on that.

Mr. BOLLINGER. Maybe I'm qualifying that terminology then in our testimony so that you will understand that we do believe there may be a solution, and that is to look at the Vietnam experience as a whole. But we have trouble with saying that Agent Orange or any other specific defoliant like that has caused the disabilities which have been included in H.R. 3004.

Mr. EVANS. I assume you probably have not had a chance to review the——

Mr. BOLLINGER. We have not. But as I stated earlier, we will certainly review the whole thing in detail.

Mr. EVANS. If you could submit to us a response to that report, we would appreciate it as well, to be made part of the record.

Mr. BOLLINGER. We would be happy to.

Mr. EVANS. Thank you, John.

Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Mr. Evans. I guess that concludes our questions of the panel. Thank you very much for appearing before the committee. It's always good to see you all.

Mr. GORMAN. Thank you, Mr. Chairman.

Mr. APPLEGATE. Our fourth panel is Mr. Tom Burch, Chairman of the National Vietnam Veterans Coalition, accompanied by Mr. William Bennett, General Secretary, and Mr. Michael Sovick, Vice Chairman, Oklahoma Agent Orange Foundation.

Gentlemen, thank you very much for appearing before the committee. It is very important that you give us your testimony. We will begin with Mr. Burch.

STATEMENT OF THOMAS BURCH, CHAIRMAN, NATIONAL VIETNAM VETERANS COALITION; ACCOMPANIED BY WILLIAM T. BENNETT, GENERAL SECRETARY; AND MICHAEL N. SOVICK, AGENT ORANGE CHAIRMAN, AND VICE CHAIRMAN, OKLAHOMA AGENT ORANGE FOUNDATION

Mr. BURCH. Thank you, Mr. Chairman. I am Tom Burch. I am the Chairman of the National Vietnam Veterans Coalition. I am a Vietnam veteran. I served in the Special Forces group in Vietnam in 1967 and 1968.

At the table with me I have the General Secretary of the Coalition, who is also editor of our newsletter, William T. Bennett, a Vietnam veteran, and on my right I have Michael Sovick, who is the Agent Orange Chairman for the Coalition and Vice Chairman of one of our member groups, the Oklahoma Agent Orange Foundation. And to my right I have the Agent Orange chairman of Veterans of the Vietnam War, one of the more substantial groups in our Coalition. Also, directly to my rear, sitting in the press section, is Mr. Tony Diamond of the Brotherhood Rally of All Veterans organization, who is the media outlet for the Vietnam Veterans Coalition.

Mr. Chairman, the National Vietnam Veterans Coalition is a federation of 52 independent Vietnam veterans organizations, and includes all the major independent Vietnam veterans organizations in the country but one. We have a combined membership of 300,000, and we are here today to voice our very strong support for H.R. 3004. This is an excellent piece of legislation. It's the best legislation that I've seen since I have been working on this issue. We are very strongly in support of it.

Mr. Chairman, in advance of this hearing we presented our written testimony, and rather than read this testimony verbatim in the record, we would like the committee to accept it verbatim into the record and then let us make a few summary comments on some of the issues contained therein. So at this time we would ask you include this verbatim into the record.

Mr. APPLEGATE. Without objection.

Mr. BURCH. Mr. Chairman, the Coalition has a group, the Oklahoma Agent Orange Foundation, and they study the studies. Michael Sovick, who is the Vice Chairman of that group, is our Agent Orange Chairman and he is personally an Agent Orange victim. We would like to have Michael make a few comments and then come back to me to summarize the position of the Coalition on this legislation.

STATEMENT OF MICHAEL N. SOVICK

Mr. SOVICK. Thank you, Tom.

Mr. Chairman, I want to thank you for holding this hearing, and I also want to thank Representative Lane Evans for all his efforts over the years.

I have been waiting for almost 2 years for an opportunity such as this to try to set the record straight about the Centers for Disease Control Vietnam experience study. On June 8, 1988, before the full House Committee on Veterans' Affairs, the CDC testified and the media reported that there were few current health problems found

in Vietnam veterans. However, after reading the eight-volume monograph that the CDC published and released months after they testified, I found dozens of diseases and conditions that were all significantly excessive in the Vietnam veterans study.

I have submitted a list of these health problems for the permanent record, and it has been accepted. This list of diseases is over two legal pages long.

The CDC seems to follow the same pattern, where they release preliminary data with media attention, and then later the final results are published and sometimes, oftentimes, they reflect a different conclusion than the preliminary data suggested.

Again, like many of the other groups have mentioned, I think one of the most important features of H.R. 3004 is the comprehensive review of the studies that would be done, presumably by the National Academy of Sciences. This review of the studies would help set the record straight with respect to some of these inconsistencies, particularly in the CDC study.

If the CDC believes, for example, that Agent Orange has not harmed Vietnam veterans, as they concluded in the recent Selected Cancers Study, why would they consistently submit preliminary data and congressional testimony and press releases that seem to differ with the results of their published findings?

[The prepared statement of Michael N. Sovick appears at p. 149.]

Mr. BURCH. Mr. Chairman, there are a number of features of this bill that we particularly like, and then I would like to quickly summarize some experience we had with the prior legislation.

We like the fact that a number of the cancers in Agent Orange related diseases are specifically identified. We like the fact that the National Academy of Sciences has been asked to do an independent review. We like the mandated outreach programs set up. We like the amendments to be made to the Ranch Hand study. We like the tissue archiving system. We like the retention of health care eligibility for the Agent Orange and radiation exposure.

I have been working on this issue, Mr. Chairman, since 1983. I first testified on this when the Coalition came together to try to get all the independent groups so that we could appear before you like we are today.

That first bill we had we thought was going to be a help. There were about 1,200 veterans and it was going to be about a $10 million bill. Since that time, when I was talking to the Administrator last year, only 30 veterans received any benefits out of that program. As a matter of fact, they stopped putting in for an appropriation because they just took it out of petty cash.

The original bill allowed for soft tissue sarcoma. We tried to work with the VA; we tried to work through the system. We now need mandated legislation by the Congress to help us on it.

The men are frustrated out there. We deal with them every day. It's an emotional issue, but there's something wrong. There are a lot of men who are in their forties and they're dying, Mr. Chairman. They are dying at such a high rate, it just makes no sense. There is something really, really wrong, and they need the help now. The problem is going to go away because the men are dying too fast. The men need legislation this year. The bill that does it, so we're not coming here year after year, is H.R. 3004. As I said, it's

the best legislation I've seen since I have been working on this issue.

We need legislation. We have a lot of frustrated men who need help. I know this committee is very interested in this issue, but please give us the best piece of legislation this year that you possibly can because there are men who really need it.

We have an excellent Secretary in the VA. Tony Principi is an excellent Deputy. But it's just not happening. They have been knowing about these hearings a long time, they've been managing, and they haven't taken action. What we want to do is work from a mandated piece of legislation and then we can work hand-in-glove with the VA. But give us the mandated legislation and let us go from there.

One final point about money. We understand this bill is an $89 million bill. But one of the things I haven't heard testified to today is, now that the Secretary has ruled that non-Hodgkin's lymphoma will now be covered, that takes about $21 million out of your bill. So please deduct that from it and give us the other $68 million and let's get this issue behind us and give these veterans some relief.

Thank you, Mr. Chairman.

[The prepared statement of Thomas Burch appears at p. 143.]

Mr. APPLEGATE. Thank you very much, Mr. Burch.

Mr. Bennett, do you have anything to add?

Mr. BENNETT. Don't talk, Mr. Chairman, unless you improve the silence.

Mr. APPLEGATE. Thank you very much.

Mr. Evans.

Mr. EVANS. You answered the question I was going to ask, that I have asked every panel, which is, would you support holding this legislation in abeyance until the rulemaking process can proceed. I guess you've made that very clear.

Mr. BURCH. Mr. Bennett will deal with that.

Mr. BENNETT. No, we wouldn't. I think what we have said in the written testimony was that this rulemaking process has not been working well at all. It is only because Secretary Derwinski has been willing to override his own scientific advisors that anything has happened.

They set up the new regulations. Every State Agent Orange commission, just about every veterans organization, took one look at the proposed new rule and said this rule doesn't work unless you reconstitute a scientific panel because it's too biased. The response that came out of the VA bureaucracy, when they put the final reg into the Federal Register, was "that's irrelevant". Then, sure enough, they took a two-day hearing for non-Hodgkin's lymphoma, came to no cause and effect—I mean, no statistical association.

I heard Deputy Secretary Principi say this morning we're going to have a hearing on May 16th. Well, if it took them 2 days back last November to deal with just one disease, they're going to have to do some real cracking on May 16th to get anything done.

Mr. BURCH. Let me add one other thing, too, Mr. Evans.

Both Mr. Bennett and I are attorneys. We volunteer our time to the Vietnam veterans movement. We understand these regulations and we have made numerous written comments in the proper form, and they're just ignored.

Mr. EVANS. All right.

Well, let me thank you for your glowing endorsement of the legislation, as well as this new novel argument about NHL. I will probably be plagiarizing you now and using that argument. Thank you very much.

Mr. APPLEGATE. Thank you, Mr. Evans. Some plagiarisms are all right. We'll forgive you for that.

Two things. I am advised that there are several organizations that have asked to submit statements for the record. We will keep the record open for them for a reasonable amount of time to allow them to do that.

We are privileged to have two veterans from other nations in the room. I would like to introduce them. One is Mr. Vic Johnson, a New Zealand Vietnam veteran, with the Royal Commission on Agent Orange. Also, we have Mr. Bernie Newesome, who is also a Vietnam veteran from Australia.

[Applause.]

It is very good to have you both here with us today.

Gentlemen, I think that concludes our hearing for today. We thank you very much for your invaluable input. We will be looking into this in great depth and will be back at a later time. Thank you all for coming.

The meeting is adjourned.

[Whreupon, at 12:25 p.m., the subcommittee was adjourned.]

APPENDIX

I

101ST CONGRESS
1ST SESSION

H. R. 3004

To amend title 38, United States Code, to provide a presumption of service-connection between certain diseases experienced by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam; to provide for permanent benefits for veterans of such service who have certain diseases; to improve the reporting requirements relating to the "Ranch Hand Study", and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 25, 1989

Mr. EVANS (for himself, Mr. LANCASTER, Mr. BONIOR, Mr. FLORIO, Mr. JOHNSON of South Dakota, Mr. JONTZ, Ms. LONG, Mr. MORRISON of Connecticut, Mr. STAGGERS, Mr. PALLONE, Mr. PANETTA, Mr. AUCOIN, Mr. BEREUTER, Mr. DEFAZIO, Mr. HOAGLAND, Mr. LAUGHLIN, Mr. LIPINSKI, Mr. MRAZEK, Mr. POSHARD, Mr. SKAGGS, Mrs. UNSOELD, Mr. WEISS, Mr. ACKERMAN, Mr. BEVILL, Mrs. BOXER, Mr. DE LUGO, Mr. DYMALLY, Mr. FAUNTROY, Mr. FRANK, Mr. HAWKINS, Mr. HAYES of Illinois, Mr. HOCHBRUECKNER, Ms. KAPTUR, Mrs. LOWEY of New York, Mr. MARTINEZ, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. ROSE, Mr. STARK, Mr. TRAFICANT, Mr. WISE, Mr. DOWNEY, Mr. BROWN of California, Mr. BRYANT, Ms. SLAUGHTER of New York, Mr. HUGHES, Ms. PELOSI, Mr. ATKINS, Mr. KOSTMAYER, Mr. BORSKI, Mr. BATES, Mr. SHARP, Mr. OWENS of New York, Mr. BRUCE, Mr. NAGLE, Mr. GLICKMAN, Mr. BUSTAMANTE, Mr. TORRES, Mr. ORTIZ, Mr. MARKEY, Mr. WOLPE, Mr. HERTEL, Mr. RUSSO, Mr. KOLTER, Mr. WHEAT, Mr. SYNAR, Mr. LEVIN of Michigan, Mr. RICHARDSON, Mr. VISCLOSKY, Mr. BOUCHER, Mr. DELLUMS, Mr. LELAND, Mr. BERMAN, Mr. FEIGHAN, Mr. SCHUMER, Mr. TOWNS, Mr. STOKES, Mr. JACOBS, Mr. LEWIS of Georgia, and Mr. MOODY) introduced the following bill; which was referred to the Committee on Veterans' Affairs -

A BILL

To amend title 38, United States Code, to provide a presumption of service-connection between certain diseases experi-

enced by veterans of active service in Vietnam during the Vietnam era and exposure to certain toxic herbicide agents used in Vietnam; to provide for permanent benefits for veterans of such service who have certain diseases; to improve the reporting requirements relating to the "Ranch Hand Study", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1989".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) There is sufficient scientific evidence and experience to warrant a presumption that certain diseases suffered by veterans of service in the Republic of Vietnam during the Vietnam era are connected to such service.

(2) There is sufficient scientific evidence to warrant a presumption that exposure to dioxin or other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era causes a range of significant adverse health effects associated with carcinogenicity, reproductive toxicity, and immunotoxicity in humans.

(3) The Secretary of Veterans Affairs has determined that it is reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin and other toxic agents in herbicides during such service.

(4) It is also reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed, during such service, to other causes of disease.

SEC. 3. PRESUMPTION OF SERVICE CONNECTION FOR CHLORACNE.

Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(d) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, in the case of a veteran who, during active military, naval, or air service, served in the Republic of Vietnam during the Vietnam era, the disease of chloracne shall be considered to have been incurred in or aggravated by such Vietnam service, notwithstanding there is no record of evidence of such disease during the period of such Vietnam service, if such disease or another acneform disease consistent with chloracne became manifest to a 10 percent degree of disability or more within

one year after the last date on which that veteran performed such Vietnam service.

SEC. 4. PRESUMPTION RELATING TO CERTAIN OTHER DISEASES.

(a) PRESUMPTION OF SERVICE CONNECTION.—Section 312 of title 38, United States Code, as amended by section 4, is further amended by adding at the end the following new subsection:

"(e) For the purposes of section 310 of this title, in the case of any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era, the following diseases shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service:

"(1) Non-Hodgkin's lymphoma.

"(2) Soft-tissue sarcoma.

"(3) Melanoma and basal cell carcinoma."

(b) APPLICABILITY OF PRESUMPTION.—If, in the case of any veteran, compensation under chapter 11 or disability and indemnity compensation under chapter 13 of title 38, United States Code, is awarded to any person on the basis of a presumption provided in subsection (e) of section 312 of such title (as added by subsection (a)), such award shall take effect on the date (whether before, on, or after the date of the

enactment of this Act) on which the Department of Veterans Affairs first received an application in which such person claimed entitlement to such compensation on the basis of the disability or death of such veteran resulting from a disease referred to in such subsection (e).

SEC. 5. PRESUMPTION OF SERVICE CONNECTION FOR DISEASES ASSOCIATED WITH EFFECTS OF EXPOSURE TO CERTAIN HERBICIDE AGENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) It is in the public interest to provide for an independent nonprofit scientific organization which has appropriate expertise and is not connected to the Department of Veterans Affairs to review and evaluate the available scientific evidence regarding associations between diseases and exposure to dioxin and other chemical compounds in herbicides and to make judgments on the degree and probability of such associations, because there is no uniform body of scientific literature on such issues.

(2) The standard of proof required for a scientific conclusion of causation is higher than the standard of proof required for justification of a presumption, for purposes of veterans disability compensation laws, that an adverse health effect is connected, based on sound

medical and scientific evidence, to active service in the Armed Forces of the United States.

(b) IN GENERAL.—(1) Subchapter II of chapter 11 of title 38, United States Code, is amended by inserting after section 312 the following new section:

"§ 312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents

"(a)(1) For the purposes of section 310 of this title, and subject to section 313 of this title, in the case of a Vietnam veteran who, during Vietnam service, was exposed to a herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid or to any other herbicide agent, each disease (if any) listed in regulations prescribed by the Secretary in accordance with this section and identified in such regulations as having positive association with the biological effects of exposure to such herbicide agent shall be considered to have been incurred in or aggravated by such service, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) For the purposes of this subsection, a veteran who performed Vietnam service and has a disease referred to in paragraph (1) of this subsection shall be presumed to have been exposed during such service to a herbicide agent containing dioxin or 2,4-dichlorophenoxyacetic acid, and may be

presumed to have been exposed during such service to any other chemical compound in a herbicide agent, unless there is affirmative evidence to establish conclusively that the veteran was not exposed to any such agent during such service.

"(3) The Secretary may extend the applicability of paragraph (1) of this subsection to the case of any veteran who, during the performance of active military, naval, or air service outside Vietnam, was exposed to an agent of the same type as the herbicide agent referred to in paragraph (1) of this subsection.

"(b)(1) Whenever the Secretary determines pursuant to this section that there is positive association between any disease and the biological effects of exposure to a herbicide agent in Vietnam, the Secretary shall prescribe regulations listing each disease having such positive association. In the case of each disease listed in the regulations, the Secretary shall identify the herbicide agent that causes the biological effects with which the disease has positive association. After the Secretary prescribes regulations pursuant to this paragraph, the Secretary shall periodically revise such regulations, as appropriate, to reflect determinations periodically made pursuant to paragraph (2) of this subsection.

"(2) The Secretary shall periodically (and not less often than biennially)—

"(A) determine whether any disease not listed in regulations under this section has positive association with such effects; and

"(B) determine whether any disease listed in such regulations does not have positive association with such effects.

"(3) The Secretary shall make determinations for the purpose of this subsection on the basis of reports received by the Secretary from a contract scientific organization pursuant to this section and all other relevant scientific evidence, information, or analyses available to the Secretary at the time of the determinations.

"(c) In prescribing and revising regulations for the purposes of subsection (b), the Secretary shall obtain, by contract, the determinations and estimates of a contract scientific organization as provided in this section.

"(d)(1) Each contract entered into under subsection (c) of this section shall provide for a contract scientific organization—

"(A) to determine, in the case of each herbicide agent—

"(i) which diseases (if any) have positive association with the biological effects of exposure to such agent, including specifically effects involving porphyrin synthesis, nervous system function,

immune function, reproduction, and birth defects, and psychological and psychiatric effects;

"(ii) which diseases (if any) have limited positive association with such biological effects;

"(iii) which diseases (if any) have insubstantial association with such biological effects; and

"(iv) to the extent practicable, the biological basis for the positive, limited positive, and insubstantial associations of diseases referred to in subsclauses (i), (ii), and (iii) of this clause with such biological effects; and

"(B) to estimate the extent of the association between each such disease and such biological effects using methods as quantitative and as objective as the relevant available data permit.

"(2) The contract scientific organization shall specifically determine whether there is positive, limited positive, or insubstantial association between the biological effects referred to in paragraph (1) of this subsection and the following diseases:

"(A) Non-Hodgkin's lymphoma.

"(B) Each soft-tissue sarcoma.

"(C) Lung cancer.

"(D) Each other cancer.

"(e)(1) The first contract entered into under subsection (c) of this section shall provide for the contract scientific organization—

"(A) to conduct as comprehensive a survey and evaluation as is practicable of the completed and ongoing scientific studies of, and other scientific evidence or information regarding, the effects that herbicide agents have on humans or other animals that have been exposed to such agents, including an evaluation of the CDC Selected Cancers Study report; and

"(B) make its determinations and estimates on the basis of the results of such survey and evaluation.

"(2) The contract scientific organization shall conduct the survey and evaluation referred to in paragraph (1)(A) of this subsection through a panel composed of recognized experts, in toxicology, medicine, epidemiology, statistics, biochemistry, and related fields. The conduct of such survey shall be subject to appropriate peer review.

"(f) A contract entered into under subsection (c) of this section in connection with the Secretary's periodic determinations under subsection (b)(2) of this section shall require a contract scientific organization—

"(1) to conduct as comprehensive a survey and evaluation as is practicable of the scientific studies, evidence, and information referred to in subsection

(e)(1)(A) of this section that have become available since the last such survey and evaluation under this section; and

"(2) make its determinations and estimates on the basis of the results of such survey and evaluation and all other surveys and evaluations conducted for the purposes of this section.

"(g)(1) Each contract scientific organization making determinations and estimates under this section shall transmit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives a written report regarding its determinations and estimates.

"(2) Each report shall contain—

"(A) the name of each disease (if any) determined to have positive association with the biological effects of exposure to a herbicide agent in Vietnam and the identity of such agent;

"(B) the name of each disease (if any) determined to have limited positive association with the biological effects of exposure to a herbicide agent in Vietnam and the identity of such agent;

"(C) the name of each disease (if any) determined to have insubstantial association with the biological effects of exposure to an herbicide agent in Vietnam and the identity of such agent; and

"(D) with respect to each disease named pursuant to clauses (A), (B), and (C) of this paragraph—

"(i) a discussion of the biological basis for the association;

"(ii) the contract scientific organization's estimate of the statistical significance of the association.

"(iii) the contract scientific organization's estimate of the relative risk for such disease in veterans who, during Vietnam service, were exposed to an herbicide agent; and

"(iv) the probability that the estimates referred to in subclauses (ii) and (iii) are correct.

"(3) Estimates and probabilities are not required under clauses (ii), (iii), and (iv) of paragraph (2)(D) of this subsection when the available data do not permit meaningful estimates and probabilities.

"(4)(A) If a contract scientific organization determines that a disease has positive association with the biological effects of exposure to a herbicide agent used in Vietnam, such organization shall determine whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent in Vietnam was exposed to such agent under the circumstances necessary for such biological effects.

"(B) If a contract scientific organization determines that there is no such reasonable basis, the organization shall state that determination in a report under this subsection and include in such report—

"(i) a description of the evidence that supports such determination;

"(ii) a description of the evidence (if any) that supports alternative conclusions; and

"(iii) a full discussion of the organization's reasons for such determination, including a discussion of the reasons for the organization's determination that the evidence referred to in clause (i) of this subparagraph outweighs the evidence (if any) referred to in clause (ii) of this subparagraph.

"(C) A determination with respect to reasonable basis is not required under subparagraph (A) of this paragraph when the available data do not permit a meaningful determination.

"(5) The first report under this subsection shall be transmitted to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives on or before the later of (A) the date 60 days after the date on which the contract scientific organization obtains a copy of the CDC Selected Cancers Study report, or (B) the date one year after the date of the enactment of the Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989.

"(h)(1) Not later than 60 days after the date on which the Secretary receives the first report under subsection (g) of this section, the Secretary shall—

"(A) for the purpose of subsection (b)(1) of this section—

"(i) determine in accordance with subsection (b)(3) of this section whether there is positive association between any disease and the biological effects of exposure to an herbicide agent in Vietnam; and

"(ii) if so, issue proposed regulations listing each such disease and specifying such agent;

"(B) transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the scientific basis for including each disease listed in such proposed regulations, and

"(C) if any disease listed in the first report under subsection (g) of this subsection as having positive association is not listed in such proposed regulations—

"(i) include in the report to the Committees on Veterans' Affairs the scientific basis for not including that disease in the proposed regulations; and

"(ii) publish in the Federal Register a notice that such disease is not listed in the proposed reg-

ulations despite the report under subsection (g) and include in such notice a discussion of such scientific basis.

"(2) Not later than 60 days after the date on which the Secretary issues any proposed regulations pursuant to paragraph (1) of this subsection, the Secretary shall issue final regulations under subsection (b). Such regulations shall be effective on the date of issuance.

"(i)(1) Upon receiving a contract scientific organization's report after a periodic survey and evaluation conducted for the purpose of subsection (b)(2) of this section, the Secretary shall—

"(A) determine in accordance with subsection (b)(3) of this section whether—

"(i) any disease named in such report not listed in regulations under subsection (b) of this section has positive association with the biological effects of exposure to a herbicide agent in Vietnam;

"(ii) any disease listed in such regulations does not have positive association with such effects; and

"(B) promptly transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the Secretary's deter-

minations under clause (A) of this paragraph and the scientific bases for such determinations.

"(2)(A) Not later than 60 days after transmitting a report to the Committees on Veterans' Affairs under paragraph (1)(B) of this subsection, the Secretary shall prescribe or revise regulations, as the case may be, pursuant to subsection (b) of this section as may be necessary to reflect the Secretary's determinations included in that report. The regulations or revisions of regulations, as the case may be, shall take effect 30 days after the date on which the Secretary issues the proposed regulations or revisions, as the case may be.

"(B) If any disease listed in a periodic report under subsection (g) of this section as having positive association is not listed in such regulations or revisions of regulations, as the case may be, the Secretary shall, not later than 60 days after transmitting a report under subparagraph (A) of this paragraph, publish in the Federal Register a notice that such disease is not listed in the proposed regulations despite such report and include in such notice a discussion of the scientific basis for not including that disease in such regulations or revisions.

"(j) Whenever a disease is removed from regulations pursuant to paragraph (2) of subsection (i) of this section as a

result of a determination under paragraph (1)(A)(ii) of such subsection—

"(1) any veteran who was awarded compensation for such disease on the basis of the presumption provided in subsection (a) of this section before the effective date of the removal shall continue to be entitled to receive compensation on such basis; and

"(2) any survivor of a veteran who was awarded dependency and indemnity compensation for the death of a veteran resulting from such disease on the basis of such presumption shall continue to be entitled to receive dependency and indemnity compensation on such basis.

"(k) The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

"(l)(1) Subsections (b) through (i) and (k) of this section shall cease to be effective 10 years after the first day of the fiscal year in which a contract scientific organization transmits to the Secretary the first report under subsection (g) of this section.

"(m) In this section:

"(1) The term 'Vietnam veteran' means a veteran who performed Vietnam service.

"(2) The term 'Vietnam service' means active military, naval, or air service in Vietnam during the Vietnam era.

"(3) The term 'herbicide agent' means an agent in a herbicide used in support of United States and allied military operations in Vietnam during the Vietnam era.

"(4) The term 'biological effect', with respect to exposure to a herbicide agent, means—

"(A) each known biological effect of such exposure on humans, including those biological effects resulting from relevant host and environmental factors; and

"(B) each biological effect of such exposure on humans that it is reasonable to infer on the basis of the known biological effects of such exposure on appropriate animal models.

"(5) The term 'positive', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that the credible evidence for the association is equal to or outweighs the credible evidence against the association.

"(6) The term 'limited positive', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that the credible evidence against the association out-

weighs the credible evidence for the association but that there is substantial credible evidence for the association.

"(7) The term 'insubstantial', with respect to association between a disease and the biological effects of exposure to a herbicide agent in Vietnam, means that there is some credible evidence for the association but the evidence is not substantial.

"(8) The term 'relative risk', with respect to a report of a contract scientific organization for the purposes of subsection (g) of this section, shall have the meaning determined by such organization and specified in such report.

"(9) The term 'contract scientific organization', with respect to a contract under this section, means—

"(A) the National Academy of Sciences; or

"(B) in the event that the Secretary determines that the National Academy of Sciences is unwilling to enter into such contract, any other appropriate private nonprofit scientific organization which has appropriate expertise and has no connection with the Department of Veterans' Affairs and which the Secretary identifies to the Committees on Veterans' Affairs of the Senate and the House of Representatives in a written no-

tification received by such committees at least 90 days before the date on which such contract is entered into.

"(10) The term 'soft tissue sarcoma' meams any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

"(11) The term 'CDC Selected Cancers Study report' means the report submitted to Congress by the Secretary of Veterans Affairs that contains the final results of the Selected Cancers Study conducted by the Centers for Disease Control pursuant to section 307 of the Veterans Health Programs Extension and Improvement Act of 1979 (Public Law 96–151; 38 U.S.C. 219 note).".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 312 the following new item:

"312A. Presumption of service connection for diseases associated with effects of exposure to certain herbicide agents.".

(c) CONFORMING AMENDMENT.—Section 313 of title 38, United States Code, is amended by inserting "or 312A" after "section 312" each place it appears.

(d) SPECIAL EFFECTIVE DATE FOR AWARDS OF DISABILITY COMPENSATION.—If the Secretary of Veterans Affairs issues final regulations under subsection (h)(2) of section 312A of title 38, United States Code (as added by subsection

(b)), after April 15, 1993, any award of disability compensation under chapter 11 of such title (in the case of a claim received by the Secretary before the effective date of such final regulations) on the basis of presumption provided in subsection (a) of such section 312A shall be effective on the later of April 16, 1993, or the date determined under section 3010 of such title.

SEC. 6. RESULTS OF EXAMINATIONS AND TREATMENT OF VETERANS FOR DISABILITIES RELATED TO EXPOSURE TO CERTAIN HERBICIDES OR TO SERVICE IN VIETNAM.

(a) IN GENERAL.—The Secretary of Veterans Affairs shall compile and analyze, on a continuing basis, all clinical data that (1) are obtained by the Department of Veterans Affairs in connection with examinations and treatment furnished to veterans by the Department after November 3, 1981, by reason of eligibility provided in section 610(e)(1)(A) of title 38, United States Code, and (2) are likely to be scientifically useful in determining the association, if any, between the disabilities of veterans referred to in such section and exposure to dioxin or any other toxic substance referred to in such section or between such disabilities and active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) ANNUAL REPORT.—The Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives an annual report containing—

(1) the information compiled in accordance with subsection (a);

(2) the Secretary's analysis of such information;

(3) a discussion of the types of incidences of disabilities identified or treated by the Department of Veterans Affairs in the case of veterans referred to in subsection (a);

(4) the Secretary's explanation for the incidence of such disabilities;

(5) other explanations for the incidence of such disabilities considered reasonable by the Secretary; and

(6) the evaluation of such report submitted by the Director of the National Institutes of Health (NIH) Research and Grants Division in conjunction with the National Institute of Environmental Health Sciences (NIEHS) pursuant to subsection (c)(2).

(c) CONSULTATION WITH NIH RESEARCH AND GRANTS DIVISION IN CONJUNCTION WITH NIEHS.—(1) The Secretary of Veterans Affairs shall consult with the Director of the NIH Research and Grants Division in conjunction with NIEHS before compiling and analyzing any information under this section and shall submit each annual report

required by subsection (b) to the Director before submitting such report to the committees referred to in such subsection.

(2) The Director of the NIH Research and Grants Division in conjunction with NIEHS shall review each annual report submitted under paragraph (1) and shall transmit to the Secretary of Veterans Affairs the Director's evaluation of the content of the report.

(d) FIRST REPORT.—The first report under subsection (b) shall be submitted one year after the date of the enactment of this Act.

SEC. 7. TISSUE ARCHIVING SYSTEM.

(a) ESTABLISHMENT OF SYSTEM.—For the purpose of facilitating future scientific research on the effects of exposure of veterans to dioxin and other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, the Secretary of Veterans Affairs shall establish and maintain a system for the collection and storage of voluntarily contributed samples of blood and tissue of veterans who performed Vietnam era service in the Republic of Vietnam during active military, naval, or air service. The system may be administered by the Department of Veterans Affairs or under a contract awarded by the Secretary, whichever is more cost-effective.

(b) SECURITY OF SPECIMENS.—The Secretary shall ensure that the tissue is collected and stored under physically secure conditions and that the tissue is maintained in a condition that is useful for research referred to in subsection (a).

(c) AUTHORIZED USE OF SPECIMENS.—The Secretary may make blood and tissue available from the system for research referred to in subsection (a) in a manner consistent with the privacy rights and interests of the blood and tissue donors.

(d) LIMITATIONS ON ACCEPTANCE OF SAMPLES.—The Secretary may prescribe such limitations on the acceptance and storage of blood and tissue samples as the Secretary considers appropriate consistent with the purpose specified in the first sentence of subsection (a).

(e) CONSULTATION REQUIREMENTS.—(1) To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences, the Secretary shall consult with the National Academy of Sciences regarding the establishment and maintenance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(2) In the event that the National Academy of Sciences does not enter into an agreement for consultation under paragraph (1), the Secretary shall consult with the Director of the Medical Follow-up Agency on the establishment and mainte-

nance of the tissue archiving system under this section, including any limitation to be prescribed under subsection (d).

(f) CONTRACT AUTHORITY SUBJECT TO APPROPRIATION.—The contract authority provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 8. SCIENTIFIC RESEARCH FEASIBILITY STUDIES PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—The Secretary of Veterans Affairs shall establish a program to provide for the conduct of studies of the feasibility of conducting additional scientific research on—

(1) health hazards resulting from exposure to dioxin;

(2) health hazards resulting from exposure to other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era; and

(3) health hazards resulting from active military, naval, or air service in the Republic of Vietnam during the Vietnam era.

(b) PROGRAM REQUIREMENTS.—(1) Under the program established pursuant to subsection (a), the Secretary shall, pursuant to criteria prescribed pursuant to paragraph (2), award contracts or furnish financial assistance to non-

Government entities for the conduct of studies referred to in subsection (a).

(2) The Secretary shall prescribe criteria for (A) the selection of entities to be awarded contracts or to receive financial assistance under the program, and (B) the approval of studies to be conducted under such contracts or with such financial assistance.

(c) REPORT.—The Secretary shall promptly report the results of studies conducted under the program to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

(d) CONSULTATION WITH THE NATIONAL ACADEMY OF SCIENCES.—To the extent provided under any agreement entered into by the Secretary and the National Academy of Sciences (1) the Secretary shall consult with the National Academy of Sciences regarding the establishment and administration of the program under subsection (a), and (2) the National Academy of Sciences shall review the studies conducted under contracts awarded pursuant to the program and the studies conducted with financial assistance furnished pursuant to the program. The agreement shall require the National Academy of Sciences to submit to the Secretary and the Committees on Veterans' Affairs of the Senate and the House of Representatives any recommendations that the Na-

tional Academy of Sciences considers appropriate regarding any studies reviewed under the agreement.

(e) AUTHORITY SUBJECT TO APPROPRIATION.—The authorities to enter into contracts and to furnish financial assistance provided in this section shall be effective for a fiscal year to such extent or in such amount as is provided for in an appropriation Act.

SEC. 9. OUTREACH SERVICES.

Section 1204(a) of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100–687; 102 Stat. 4125) is amended—

(1) in clause (1), by striking out ", as such information on health risks becomes known";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively;

(3) by inserting "(1)" after "PROGRAM.—";

(4) by adding at the end the following new paragraph:

"(2) The Secretary of Veterans Affairs shall furnish the information described in paragraph (1) to the individuals listed in the Department of Veterans Affairs' Agent Orange Registry. Each year the Secretary shall (A) update that information, and (B) furnish the updated information to such individuals.".

SEC. 10. REPORT RELATING TO RESEARCH ON TREATMENTS FOR EXPOSURE TO DIOXIN AND OTHER TOXIC AGENTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing a discussion of the research being conducted to identify and develop treatments for physiological absorption of dioxin and other toxic agents similar to the toxic agents in herbicides used in support of United States and allied operations in the Republic of Vietnam during the Vietnam era, including research relating to exposure to dioxin and other toxic agents outside the Republic of Vietnam.

SEC. 11. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) of title 38, United States Code, is amended by striking out "December 31, 1990" and inserting in lieu thereof "December 31, 2000".

SEC. 12. RANCH HAND STUDY AMENDMENTS.

Section 1205 of the Veterans' Benefits Improvement Act of 1988 (division B of Public Law 100-687; 102 Stat. 4126) is amended—

(1) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively;

(2) by inserting after subsection (b) the following new subsection (c):

"(c) ADVISORY RELATIONSHIP.—The Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study, and such scientists may consult directly with and provide information and recommendations directly to the Advisory Committee. No officer or employee of the Federal Government may intervene in or impair direct communication between the Advisory Committee and such scientists under this section except as may be necessary to prevent an inappropriate disclosure of classified information.";

(3) in subsection (d), as redesignated by clause (1)—

(A) by adding at the end of paragraph (1) the following: "The schedule shall provide for the preparation of annual reports and a final report."; and

(B) in paragraph (4), by inserting "in" after "report referred to"; and

(4) in paragraph (1) of subsection (e), as redesignated by clause (1), by striking out "Defense" and inserting in lieu thereof "Health and Human Services".

SEC. 13. DEFINITIONS.

In this Act:

(1) The terms "veteran", "service-connected", "active military, naval, or air service", and "Vietnam era" shall have the meanings given those terms in paragraphs (2), (16), (24), and (29), respectively, of section 101 of title 38, United States Code.

(2) The term "disability" refers to a disability within the meaning of chapter 11 of such title.

(3) The term "soft-tissue sarcoma" means any sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, and mesothelioma.

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TESTIMONY OF SENATOR TOM DASCHLE
BEFORE THE
SUBCOMMITTEE ON COMPENSATION AND PENSIONS
OF THE
HOUSE VETERANS' AFFAIRS COMMITTEE

May 2, 1990

Mr. Chairman, thank you for allowing me to testify before you and other subcommittee members today on the importance of H.R. 3004, legislation sponsored by Congressman Evans and cosponsored by 165 of his House colleagues, to compensate veterans suffering from several diseases associated with exposure to Agent Orange. It is a pleasure to be back at my old stomping ground. As many of you know, justice for Agent Orange victims is something I have been seeking for quite some time, and I appreciate the subcommittee's willingness to move forward with consideration of H.R. 3004.

First, I would like to state my wholehearted support for H.R. 3004. This legislation is similar to legislation (S. 1153) I have sponsored with Senators Kerry, Cranston and others -- legislation that has passed the Senate twice with overwhelming support in the 101st Congress and is now pending in your Committee.

Second, I want to give you a sense of the urgency that I believe is associated with this issue. The last American soldier left Vietnam fifteen years ago. But for many veterans and their families, the war is not over. Many have already died, and others continue to suffer, as a result of their exposure to Agent Orange. Many believe they have passed on that legacy of suffering to their children with birth defects. In addition to their physical suffering, these veterans are experiencing the immense frustration and disillusionment associated with the government's apparent unwillingness or inability to respond to their legitimate needs and the constant, but empty promise of another "definitive" study being just around the corner.

The time has come for us to put a stop to the suffering. Vietnam veterans should not be forced to wait one minute longer.

What can we really do to help veterans who have been victimized by Agent Orange? We can do three things. First, we can ensure that we offer these veterans health care through the VA. We have done that, and I hope we will continue to do so. Second, we can ensure that veterans and the general public get sound, independent information about their relative health risks and sound medical advice about how to deal with those risks. We have done an extremely poor job of this, and we need to vastly improve our scientific study and review policy as well as our medical outreach efforts. Finally, we can provide disability compensation to those veterans who are unable to work as a result of their Agent Orange-related injuries, just as we do for veterans suffering from 54 other "presumptive" diseases. Tragically, we have not done that, and we're here today to try to correct that mistake.

H.R. 3004 addresses all these needs. It would extend VA health care for Agent Orange-related illnesses. It would establish an independent scientific review procedure through the National Academy of Sciences, ensuring that veterans and the general public get reliable scientific

assessments of the health risks involved in exposure to Agent Orange and other herbicides and their contaminants and sound medical advice. Finally, it would ensure that veterans suffering from diseases associated with Agent Orange are duly compensated.

Opposition to compensation for Agent Orange victims hinges on two critical arguments: first, that there is not enough evidence supporting veterans' claims; and, second, that there is strong evidence refuting their claims. Both of these arguments are false. For several diseases, there has been plentiful and strong evidence linking them to Agent Orange for several years. I and others have cited that evidence on the Senate floor and in previous testimony before the House and Senate Veterans' Affairs Committees. As for the evidence refuting veterans' claims, it has been consistently exaggerated by the government, chemical companies, and other opponents of Agent Orange compensation. In fact, the government and other compensation opponents have reportedly delayed, shelved, and misrepresented scientific information.

Recent developments confirm these general findings. Just a few weeks ago the public learned as a result of a lawsuit in Illinois that one of the studies by Monsanto, a chief producer of Agent Orange, was seriously flawed because of misclassification between the exposed and unexposed groups of the study. Although the government has consistently cited the Monsanto study as strong evidence against Agent Orange disability claims, the Illinois trial has revealed the fact, confirmed by an EPA scientist, that the study, if conducted properly, would have actually supported veterans' claims. Also, in contrast to the VA Advisory Committee on Environmental Hazards' November 1989 findings, just yesterday an Agent Orange Scientific Task Force of seven independent scientists expert in the field of Agent Orange, dioxin, and various pesticides released its report linking eight diseases with exposure to Agent Orange and expressing concern about several other diseases for which evidence supporting such a link is mounting.

All of this points to the need for constructive action on the Agent Orange front. I am pleased that the Secretary of Veterans Affairs has pledged his commitment to resolving this issue fairly. In initiating compensation for veterans suffering from non-Hodgkin's lymphoma, Secretary Derwinski has made an important first step. In addition, he has confirmed to me his desire to look at all the credible scientific information relevant to veterans' health care and compensation issues.

Congress has two important roles in this endeavor. First, we must ensure that the Secretary as well as the veterans and scientific communities receive independent, reliable information about Agent Orange and its health effects. That is exactly what the National Academy of Sciences review procedure in H.R. 3004 is designed to do. Second, we must go ahead and compensate those veterans suffering from diseases for which there is already sufficient evidence supporting compensation, giving the veterans the benefit of the doubt as the law requires. That is exactly what the compensation provisions in H.R. 3004 are designed to do.

In closing, it is important to stress that for Congress to meet its responsibility in this area, there will have to be movement on the Agent Orange issue in the House. As I stated earlier, the Senate-passed Agent Orange legislation is pending in the Veterans' Affairs Committee both as a freestanding bill and as an amendment to S. 13, the comprehensive veterans COLA, compensation, and health care legislation. The Committee also has H.R. 3004 under consideration. It is crucial that the House Veterans' Affairs Committee report out an Agent Orange compensation bill this year so that the House and Senate may send a meaningful bill to the President.

I look forward to working with you, Mr. Chairman, and your colleagues on the Committee to ensure that Agent Orange victims get the recognition and compensation they deserve. Thank you.

STATEMENT OF CONGRESSSMAN LANE EVANS
VETERANS' AFFAIRS COMPENSATION, PENSION AND INSURANCE SUBCOMMITTEE
HEARING ON H.R. 3004
MAY 2, 1990

Mr. Chairman, I want to thank you for holding this hearing today on my legislation to compensate veterans for diseases associated with Agent Orange.

Thousands of veterans believe that this deadly herbicide, which was supposed to save soldiers' lives, is making them casualties of cancer and other serious diseases. Vietnam veterans have asked their government to recognize these illnesses and provide them with help. They are still waiting for an answer.

Yesterday, a new study was released by an independent panel of scientists that made an exhaustive examination of the evidence regarding health effects of Agent Orange. I believe it makes a clear and unequivocal statement: There is a link between diseases vets have complained about and exposure to Agent Orange.

The study finally provides the answers veterans have been waiting for. Now I believe it is time to end the wait for help and assistance and treat the victims of Agent Orange just as if they had been injured in combat.

In my own district, I have a number of veterans who are suffering from what they believe are the effects of Agent Orange. Just a few weeks ago, I went to the funeral of Bruce Craddock, the football coach of Western Illinois University who served as a Marine Captain in Vietnam. Bruce Craddock waged a battle against liver cancer that ravaged his body. Doctors linked the cancer to Bruce's exposure to Agent Orange.

There are thousands of other veterans who are suffering from the effects of Agent Orange. They are also waging another battle -- a fight for help and recognition that they feel our government owes them. Recently, there have been some positive steps taken in this area. Now we need to take the final step. This legislation will not heal all the wounds of battle. It will fulfill this country's obligation to help those who served this country in good faith.

Gilbert Naquin's Agent Orange Settlement Appeal Is Denied

Gilbert Naquin will have to settle for his tiny compensation as one of America's 225,000 service men and women exposed to the cancer-causing defoliant Agent Orange during the Vietnam War.

Mr. Naquin

Daily Record

63, of Route 7, Dunn, said he has received word that the appeal of his $1,955 award has been denied.

He was one of the first victims to receive payment under the settlement of a class action lawsuit against the chemical companies that manufactured the herbicide used to defoliate the lush green forests of Vietnam in the 1960s and 70s.

In late August he received the first installment of his

See Naquin, Page 2

Small has taug... Baptist Training Union ...

Naquin

Continued From Page One

settlement — a check for $391.11 — from the Aetna Insurance Co. on behalf of the Agent Orange Veteran Payment Program.

"That wouldn't even pay me for my time and energy in trying to get up the records for our claim," Mr. Naquin's wife told *The Daily Record* at the time.

Mr. Naquin, through the Veterans Affairs Office, filed an appeal to the settlement, but said at the time he had little hope of getting more money.

"They wrote back and said, according to court records, I was over 60 years old and that's what the court would pay me," Mr. Naquin said this week.

"They don't realize, I was sick with this when I came back from Vietnam," he said.

Retired Navy Adm. Elmo Zumwalt Jr., who ordered the use of Agent Orange and now is fighting to see that the men and women affected by it are compensated, has called the individual settlements "pitifully small."

Mr. Naquin said he is now sending clippings of his story that appeared in July 7 edition of *The Daily Record* to senators and congressmen to draw attention to the matter.

Mr. Naquin is now homebound. Totally disabled, he suffers from a rare form of bone cancer — the latest on a long list of health problems that started prior to his being air lifted out of a M.A.S.H. unit in Vietnam in 1971.

He will be a guest of honor this Sunday for the annual Veterans' Day ceremonies at Devotional Gardens Cemetery on Old Fairgrounds Road, Dunn.

Since he left Vietnam, he has had 22 operations to help battle problems that he says were all brought about by being sprayed with Agent Orange.

In 1984 a consortium of chemical companies settled the class action lawsuit by agreeing to pay $180 million. Mr. Naquin is one of 225,000 U.S. service men who qualify for the payments under the settlement.

Mr. Naquin has a remarkable service career, spending a total of 32 years in the Marines and Army. He saw combat action in World War II, Korea and two tours in Vietnam.

He was a helicopter crewman.

From 1971, when he left Vietnam with severe stomach problems, until 1976 he was stationed at Fort Bragg where he recei...

TESTIMONY OF THE HON. H. MARTIN LANCASTER

COMMITTEE ON VETERANS' AFFAIRS

SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE

MAY 2, 1990

Mr. Chairman, I appreciate the opportunity to come before this Subcommittee today to briefly discuss some of the issues associated with the herbicide known as Agent Orange. As Co-Chair of the Vietnam-Era Veterans in Congress (VVIC) which I chair with my distinguished colleague who is also a member of this Subcommittee, Lane Evans, I feel compelled to again call to the attention of this distinguished body the necessity for legislation to address the needs of our veterans who have been exposed to the herbicide and suffered the consequences of that exposure.

The Veterans' Agent Orange Exposure and Vietnam Service Benefits Act of 1989, H.R. 3004, that has been introduced by Congressman Evans and cosponsored by 169 of our colleagues, would establish a presumption that certain illnesses and conditions of Vietnam veterans are related to Agent Orange and should be compensated.

While the recent decision by Secretary Derwinski to compensate victims of non-Hodgkin's lymphoma (NHL) is to be commended, there are other cancers that have not been so recognized. The study released in March by the Centers for Disease Control (CDC) indicated that there was no evidence to suggest a link between the herbicide and cancers examined in the CDC study, with the exception of NHL. The study found a 50 percent higher risk of Vietnam veterans contacting NHL than those who did not serve.

Today, I had invited a constituent, Mr. Gilbert Naquin of Dunn, North Carolina, to join me at this table to speak on his present situation, and the constant struggle he has had in trying to gain benefits for Agent Orange exposure during his two tours with the United States Army in Vietnam. Mr. Naquin served as a Senior

Maintenance Supervisor on helicopters. Often he was dropped into the jungle to repair disabled aircraft and make them operational. Mr. Naquin is unable to join me because he is now totally housebound. He suffers from bone cancer, has had cancer of the prostate, has a condition known as 'dumping syndrome' and many other medical problems. Before going to Vietnam in 1967, Mr. Naquin was a healthy man. Since his return from Vietnam, he has undergone twenty-six operations. His wife must now help feed and bathe him and assist him with all daily functions. She, herself, has rheumatoid arthritis and a son has had a malignant tumor. Mr. Naquin, oddly enough, is more fortunate than many of our Vietnam veterans as far as compensation is concerned. He has now received an award as a result of the Agent Orange lawsuit and receives compensation from the VA, but this compensation was not granted as a result of his Agent Orange exposure. The ordeal has not been easy. He is still attempting to receive aid and attendance benefits from the VA and has been denied. His battle through the years with the Agent Orange lawsuit and the Veterans Administration has been extremely frustrating. Recognition by the VA for these conditions as related to Agent Orange exposure has of course not been acknowledged.

Mr. Naquin is one soldier. There are thousands of others whose diseases have not been recognized and who have yet to receive any compensation. It is embarrassing to veterans to have to beg their government for benefits for which they feel they are rightly entitled.

Yesterday, the Agent Orange Scientific Task Force working with The American Legion, Vietnam Veterans of America, and The National Veterans Legal Services Project, released its study that assess the findings as to health effects in Vietnam veterans which are associated with the use of Agent Orange. The results indicate that there is a significant statistical association between exposure to Agent Orange and non-Hodgkin's Lymphoma, soft tissue sarcoma, cloracne, certain liver ailments, and certain

skin disorders and that there is a significant statistical association between exposure to Agent Orange is at least as strong as the evidence of a lack of the association for Hodgkin's disease, neurologic effects, and reproductive and developmental effects. The findings of this study will be further discussed by those testifying here today.

Mr. Chairman, I do appreciate that you have afforded this opportunity to have further discussion on Agent Orange and legislation pending action before the Subcommittee. I know that you and others on this Subcommittee are sensitive to the needs of our nation's veterans. However, there have been some 15 hearings conducted by the Committee on Veterans Affairs on this very subject. For the sake of our veterans and their families that have lived with the results of Agent Orange exposure, I believe that we in the Congress must act to recognize and compensate our veterans who are victims of this exposure. I implore this Subcommittee to act responsibly and favorably in moving this legislation forward.

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TESTIMONY OF
SENATOR PAUL SIMON
ON
H.R. 3004
VETERANS AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS ACT

Mr. Chairman:

I am gratified to be able to express my support of H.R. 3004, The Veterans Agent Orange Exposure and Vietnam Service Benefits Act. This is a comprehensive Agent Orange compensation bill that would recognize a permanent presumption of the connection between Agent Orange exposure and cancer.

Congress has debated this issue for more than a decade. Several attempts have been made to settle this issue in favor of veterans, and not in favor of the bureaucracy and the inertia that have held back justice for these veterans and their families.

Progress has been made over the years through the diligent efforts of lawmakers like Senator Tom Daschle and Congressman Lane Evans. As a veteran, I have been particularly proud to have been associated with those efforts.

Now, through the legislation offered by Congressman Evans, we can provide the benefits needed and deserved by many, many veterans. It is time for Congress to grant compensation to the men and

women who were exposed to the Agent Orange herbicide. They should not have to wait for this compensation as the veterans who were exposed to radiation did. If some had their way, we would forever be "just one more study" away from taking action. These veterans who were exposed to Agent Orange have waited long enough for the benefits they deserve. They should not be asked to continue to play a waiting game.

It's time to act. If there is a reasonable doubt, as some continue to claim, then let's give the benefit of doubt to our veterans.

Along with supporting progress in the Agent Orange struggle, I've led efforts in Congress to provide relief to our nation's Atomic Veterans. In those cases, relief is coming four decades -- or longer -- after their radiation exposure during military service. Let's act favorably on this legislation. Let's learn from the injustice done to Atomic Veterans and make certain such an episode is never repeated with the veterans who have served this nation so well.

STATEMENT OF THE HONORABLE MICHAEL BILIRAKIS
SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE
MAY 2, 1990

THANK YOU MR. CHAIRMAN.

FIRST, LET ME TAKE THIS OPPORTUNITY TO THANK YOU FOR HOLDING THIS HEARING ON HR 3004, THE VETERANS AGENT ORANGE EXPOSURE AND VIETNAM SERVICE BENEFITS ACT OF 1990. THIS LEGISLATION WOULD PROVIDE THE PRESUMPTION OF SERVICE-CONNECTION BETWEEN CERTAIN DISEASES EXPERIENCED BY VETERANS EXPOSED TO TOXIC HERBICIDE AGENTS WHILE SERVING IN VIETNAM.

WE HAVE BEEN GRAPPLING WITH THE AGENT ORANGE ISSUE FOR OVER TEN YEARS, AND TO DATE, A DEFINITIVE ANSWER TO THE QUESTION OF A CAUSAL RELATIONSHIP BETWEEN EXPOSURE TO AGENT ORANGE AND THE DEVELOPMENT OF CERTAIN RARE DISEASES CONTINUES TO ELUDE US. LIFE WOULD BE SO MUCH EASIER IF ALL QUESTIONS COULD BE ANSWERED WITH A SIMPLE YES OR NO, BUT OF COURSE, WE KNOW THAT THIS IS SELDOM POSSIBLE.

THE DEMOCRATIC PROCESS ALLOWS US TO DEBATE AND EXAMINE CONTROVERSIAL ISSUES SUCH AS THIS ONE WHILE WE ATTEMPT TO REACH EQUITABLE SOLUTIONS. I BELIEVE AS MEMBERS OF CONGRESS IT IS OUR RESPONSIBILITY TO COMPLETELY REVIEW LEGISLATION PRIOR TO ITS ENACTMENT AND THAT IS WHY I AM PLEASED YOU SAW FIT TO HOLD THIS IMPORTANT HEARING TODAY MR. CHAIRMAN.

I LOOK FORWARD TO REVIEWING THE TESTIMONY OF THE WITNESSES HERE TODAY.

STATEMENT OF
ANTHONY J. PRINCIPI
DEPUTY SECRETARY
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
MAY 2, 1990

Mr. Chairman and Members of the Subcommittee:

I am pleased to be here today to discuss H.R. 3004, the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1989."

This bill would, among other provisions, establish a presumption of service connection between service in Vietnam and four diseases: non-Hodgkin's lymphoma (NHL); soft-tissue sarcoma (STS); and melanoma and basal cell carcinoma. The bill would also establish a mechanism, wholly separate from the Department of Veterans Affairs (VA), to evaluate evidence and make recommendations concerning the association, if any, between exposure to herbicides used in Vietnam and diseases.

VA remains committed to its search for truth in this area. Indeed, two weeks from today the Veterans' Advisory Committee on Environmental Hazards will be meeting to consider both the latest report from the Centers for Disease Control (CDC) as well as numerous studies concerning the relationship between exposure to dioxin and disease. This is part of a process, Mr. Chairman, which we hope will lead to the adoption of final regulations governing dioxin-exposure claims by October of this year.

As you also know, Mr. Chairman, Secretary Derwinski announced on March 29, 1990, that he is exercising his authority as Secretary to make a determination that, in his judgment, there is a relationship between Vietnam service and non-Hodgkin's lymphoma. To that end, VA will shortly be publishing regulations which will provide that development of NHL following service in Vietnam during the Vietnam era is sufficient to establish service connection for compensation purposes. It is the Secretary's hope that this action will help to mend the divisiveness that has surrounded this issue for so many years.

Accordingly, VA asks that this bill be held in abeyance until VA has had the opportunity to complete its rulemaking process.

Our section-by-section comments and estimates are as follows:

Findings

Section 2 of the bill contains Congressional findings that: (1) there is sufficient evidence to warrant a presumption of connection between Vietnam service and certain diseases suffered by Vietnam veterans; (2) there is sufficient evidence to warrant a presumption that exposure to dioxin causes a range of adverse health effects; (3) VA has determined that it is reasonable to presume that any Vietnam veteran was exposed to dioxin during Vietnam service; and (4) it is reasonable to presume that any Vietnam veteran was exposed to other causes of disease during Vietnam service.

VA obviously agrees, Mr. Chairman, that there is a connection between Vietnam service and non-Hodgkin's lymphoma, and between exposure to dioxin and chloracne. We have not as yet established any other connections. As I said, the Advisory Committee will be meeting two weeks from today. That meeting will, we hope, shed additional light

on the connections, if any, between exposure to dioxin and disease among Vietnam veterans.

VA cannot, therefore, support proposed findings (1) and (2).

Presumption of Service Connection for Chloracne

Section 3 of the bill would amend 38 U.S.C. § 312 to establish a permanent presumption of service connection for chloracne in Vietnam veterans whose chloracne (or other acneform disease) became manifest within one year of their service in Vietnam.

It is the overwhelming and unchallenged position of the scientific and medical communities that chloracne never has a latency period exceeding three months. A three-month presumptive period has been embodied in VA regulations since 1986. 38 C.F.R. § 3.311a(c). Indeed, to the best of our knowledge, during the "interim" period in which Public Law No. 98-542 mandated a temporary one-year presumptive period for chloracne, not a single additional veteran was service-connected on the extended basis. This provision is of no value to veterans and is scientifically unsound.

Because so few cases of chloracne have been identified among Vietnam veterans, and in view of the current three-month presumption in our regulations, we would not expect significant costs with respect to the proposed one-year presumptive period for chloracne-like diseases.

Presumption of Service Connection for Certain Other Diseases

Section 4 of the bill would establish a presumption of service connection between service in Vietnam during the Vietnam era and four diseases: non-Hodgkin's lymphoma (NHL), soft-tissue sarcoma (STS), melanoma, and basal cell carcinoma. The section would also provide an effective date for benefits as of the date the claim was filed, whether before, on, or after the enactment of the bill.

On May 3, 1989, Judge Thelton Henderson of the U.S. District Court in San Francisco ruled that VA had misinterpreted the will of Congress in enacting Public Law No. 98-542. Judge Henderson concluded Congress did not intend that VA, in establishing standards and guidelines for herbicide-exposure claims, service connect diseases on the basis of cause and effect. He stated what Congress meant was that, if the weight of the evidence established a statistical correlation or if the evidence were evenly balanced, VA should service connect a disease.

Our response to this ruling was bold and direct: VA would not seek an appeal. Regulations implementing the standards set forth in the judge's decision are in place. We intend to have final substantive regulations regarding the association, if any, between exposure to dioxin and disabilities suffered by Vietnam veterans in place by October 1990.

There are suggestive studies which raise questions with respect to NHL and STS. The final Selected Cancers Study report from the Centers for Disease Control (CDC), which was released March 29, 1990, will be examined closely by the Advisory Committee on May 16-17, 1990, to determine if that study sheds additional light. I might add, Mr. Chairman, that the Secretary has recently added Admiral Elmo Zumwalt, a great advocate of veterans, to the Advisory Committee. We shall continue to pursue all possible leads in our search for the truth.

We have, we believe, more than demonstrated our good faith. We have received guidance from the Federal bench as to the proper standards for evaluation of evidence. And we believe that some of the world's leading experts in this area--the members of our advisory committee--should be given a chance to complete their work applying the new standards.

For these reasons, we must oppose the provisions of section 4.

We note, Mr. Chairman, that, in adding subsection (e) to 38 U.S.C. § 312, section 4 does not include the phrase "subject to the provisions of section 313 of this title." Section 313 provides that, with respect to presumptive diseases listed in section 312, affirmative evidence that the disease was not incurred on service--or that the disability was the result of the veteran's willful misconduct--will preclude a finding of service connection. Because section 313, by its terms, applies to section 312 whether or not the phrase is included, VA assumes that this is an inadvertent deletion, and would subject section 312(e) to the standards in section 313.

Our estimate is that the benefit cost of service connection for the diseases listed would be as follows:

Fiscal year	Veterans	Survivors	Cost ($000)
1991	3,830	1,410	20,714
1992	3,930	1,470	21,232
1993	4,080	1,530	21,529
1994	4,220	1,580	21,454
1995	4,320	1,620	21,091
			$106,020

Presumption of Service Connection for Diseases Associated with Exposure to Certain Herbicide Agents

Section 5 would establish a new mechanism under which VA would determine whether permanent disability benefits should be provided to veterans with NHL, STS, or any other diseases determined to have a "positive association" with exposure to Agent Orange or other herbicides used in Vietnam.

The section would add a new section 312A to title 38, United States Code, providing that a Vietnam veteran exposed to herbicide during Vietnam service, who contracts a disease listed by the Secretary in regulations as having a positive association with exposure to that herbicide, would be presumed to have incurred the disease in service. A Vietnam veteran with such a disease is presumed to have been exposed to herbicide in Vietnam. The Secretary could expand applicability of these provisions to non-Vietnam veterans who were actually exposed to herbicides in service.

In establishing and amending such regulations, the Secretary would be required to make determinations based in part on reports of a "contract scientific organization" (CSO), a term defined in the bill as referring to the National Academy of Sciences (NAS), or some equivalent organization if NAS declines. The CSO would determine, with respect to each herbicide agent used in Vietnam, which diseases have "positive," "limited positive," and "insubstantial" associations with the biological effects of exposure. The CSO would also be specifically required to determine the association between the biological effects of herbicides and NHL, STS, lung cancer, and each other cancer.

The CSO would, subject to the availability of appropriations, conduct a comprehensive survey of scientific studies to date, including the CDC Selected Cancers Study report,and make determinations on the basis of the results of its evaluation of the studies surveyed. The CSO would report to the Secretary and to the Veterans' Affairs Committees of Congress.

The review of completed and ongoing scientific literature to be conducted by the CSO has, in fact, already been undertaken by VA. Such reviews have been prepared by contractors for VA since 1980. The first review was prompted by the passage of Public Law No. 96-151, which required VA to conduct a comprehensive review and analysis of worldwide scientific literature concerned with the possible adverse health effects of exposure to Agent Orange and other phenoxy herbicides. This independent review included a survey of both human and animal-related research papers. In October 1981, VA published a two-volume Review of Literature on Herbicides, Including Phenoxy Herbicides and Associated Dioxins.

Because of continued active research, a two-volume update covering the literature through December 1983 was published in 1984. Each year since that time the review has been updated, even though there was no statutory requirement for such updates. Fourteen volumes have now been published by VA. Lay language synopses have also been prepared on each of these publications for review and use by the general public. VA plans to continue this review in the foreseeable future and has already budgeted to do so. The volumes are widely disseminated nationally and internationally. Many positive comments on their quality and scope have been received from scientists and other researchers who have found them to be an extremely useful research instrument representing as they do the most comprehensive compilation of literature on herbicides in existence today.

We consider it likely that the CSO would utilize the VA's review to conduct its own review of the biological and other possible effects of exposure of humans and animals to herbicide agents. To do otherwise would require that body to conduct a redundant review of such literature. It is highly unlikely that this review would yield any new significant research that has not already been, or will not be, covered in the literature search undertaken by VA.

Further, the Veterans' Advisory Committee on Environmental Hazards has, since its inception, reviewed dozens of studies concerning the effects of dioxin. The acknowledged expertise of the Committee's individual members has enhanced the collegial review of scientific and medical evidence mandated by Congress in Public Law No. 98-542. VA does not believe that the best interest of veterans would be served by abandoning the work of this distinguished panel of experts.

As we stated in our comments on section 4, VA, together with its Advisory Committee, intends to pursue all possible leads in its search for the truth. Should Congress conclude that the process would be lent credibility by our consulting with additional outside experts, such as the NAS, we would be pleased to do so if that kind of consultation would not unduly delay our progress. Nor would we object to an expansion of the authorized size of the Advisory Committee to permit additional viewpoints to be represented. Finally, we would not object to an independent review of our conclusions, after the process

now underway is completed, by any entity which the Congress believes would lend credibility to the determinations.

Abandoning the current rulemaking mechanism for identifying herbicide-related diseases in exchange for what is suggested in the bill would add much more time to the resolution of the questions involved, and for that reason we do not support the approach taken in this bill. It could take months before this bill becomes law. Negotiating a contract with NAS will also take time, assuming NAS is willing to take on this mission. Then we must wait for specific appropriations to fund the contract. Further, NAS would essentially start from scratch on a review that has already been done by others, or is well underway. Thus, we could be looking at a delay of from one to three years.

VA, as much as anyone, is acutely aware of the strong feelings on this issue. We want the matter resolved and are prepared to continue to follow the mandate Congress gave us five years ago. That mandate centers on a search for truth. We are prepared and eager to continue that search.

In light of Judge Henderson's recognition of the wealth of expert scientific knowledge of the Advisory Committee and his conclusion that the committee has appropriately reviewed all relevant scientific evidence on the issue, VA believes the present rulemaking mechanism should not be abandoned.

VA estimates the contractual cost of section 5 to be $300,000 in fiscal year 1990, with a five year cost of $1.4 million. Because we cannot predict which, if any, diseases would be service connected under this section, we cannot estimate the compensation or DIC costs which could result from this provision.

Results of Examinations and Treatment of Veterans

Section 6 would require the Secretary to compile, analyze, and report on data resulting from treatment in connection with special hospital and nursing home eligibility under 38 U.S.C. § 610(e)(1)(A) which is likely to be scientifically useful in determining the association between disabilities and herbicides or Vietnam service.

Special treatment eligibility for Vietnam veterans exposed to dioxin began November 3, 1981, pursuant to Public Law No. 97-72. Since November 1981, we estimate that roughly one million veterans have been provided inpatient or outpatient treatment under this authority. VA does not, however, maintain separate or otherwise easily identifiable records on veterans treated pursuant to section 610(e)(1)(A).

To accomplish the review required by this section would require a massive effort, in terms of staffing and other resources, to identify, retrieve, and analyze data, prepare reports, and return medical records to points of origin. Even should such an activity be successfully undertaken, the information which would be derived would have limited scientific value in arriving at any determination as to whether there is an association between exposure to herbicides and diseases or illnesses reported by Vietnam veterans. The review of clinical data would be at best only a survey of the illnesses presented by veterans. The results would not justify the resources and effort which would be required to obtain them, particularly on an ongoing basis. The determination of "association" would be

better accomplished through a review of completed and ongoing research specifically designed to yield such answers.

Assuming a cost per record reviewed of $100 for one million records, and 38 additional FTEE over a two-year period, VA estimates the total cost of such review to be $101.5 million for fiscal years 1992-93. We estimate that it would take two years--i.e., fiscal years 1991-92--to establish a system to accomplish the review called for in section 6.

Tissue Archiving System

Section 7 would require the Secretary to administer or contract for the collection and storage of voluntarily-contributed blood and tissue samples of Vietnam veterans to facilitate future scientific research on the effects of herbicides in Vietnam.

In our view, factors such as the seven-year half life of dioxin make it highly unlikely that such a system would yield positive results with respect to establishing association between dioxin exposure and disease. Further, since the samples would be archived without regard to any test other than for dioxin, we are uncertain whether such an archive would be appropriate for future research in any other area.

Against this backdrop of extremely limited potential utility, we estimate the cost of this provision to be $31.2 million in fiscal year 1991, with a cost of $66.3 million for fiscal years 1991-95. Consequently, we do not support this provision.

Scientific Research Feasibility Studies Program

Section 8 would require the Secretary to study the feasibility of conducting more studies of the effects of herbicides, dioxin, and health hazards resulting from Vietnam service. This section would require consultation with NAS regarding the establishment of such a program and reports by NAS regarding studies reviewed.

VA does not support this provision.

The requirement to conduct studies to determine the feasibility of conducting other studies is at best redundant. Additional research by VA and other Federal agencies has already been undertaken or accomplished as a result of initial research efforts in this area by these governmental bodies. For example, VA's "Vietnam Veterans Mortality Study" (Proportionate Mortality Study of Army and Marine Corps Veterans of the Vietnam War), in which it was found that certain Marine Corps Vietnam veterans appeared to have a higher percentage of deaths from lung cancer and NHL among all deaths, resulted in VA undertaking a series of follow-up mortality-related studies which are still underway. These studies may lead to recommendations for further research. In addition, the Veterans' Advisory Committee on Environmental Hazards already reviews completed research and provides recommendations to the Secretary which may include comments on the need for further studies.

The conduct of additional and related research is a common practice within the scientific community. Follow-up research such as that being conducted by VA is also being performed by other Federal agencies, scientific organizations, and individuals both in the United States

and abroad. Section 8, although it might lead to recommendations for other research, would not have a particularly significant effect as a catalyst for such additional research, as such research is already underway.

VA estimates this provision could be completed in fiscal year 1991 at a total cost of $700,000. This cost consists of $200,000 each for studies relating to dioxin and to other toxic agents in herbicides and $300,000 for a study relating to health hazards of Vietnam service.

Outreach Services

Section 9 would require the Secretary to furnish updated information on the health risks of herbicide exposure to individuals on VA's "Agent Orange Registry" on an annual basis.

The Agent Orange Registry is a name and address listing consisting primarily of veterans who have presented themselves for VA's "Agent Orange" medical examinations. The list also includes individuals and entities who ask to be placed on the list. The registry is primarily used as a mailing list for the "Agent Orange Review," an occasional publication of VA. There are currently approximately 206,000 names and addresses on the Registry.

Because the costs of the Agent Orange Review are already included in VA's budget, enactment of this provision would entail no additional costs. VA has no objection to this provision.

Report on Treatments
for Exposure to Toxic Agents

Section 10 would require a report by the Secretary of Health and Human Services (HHS) discussing research being conducted to identify and develop treatments for absorption of dioxin and other similar toxins.

As this provision primarily involves HHS, we defer to the Secretary of HHS as to its value.

Extension of Health-Care Eligibility

Section 11 would extend to December 31, 2000, eligibility for hospital and nursing home care under 38 U.S.C. § 610(e)(1) based on exposure to Agent Orange or ionizing radiation.

Because evaluation of the evidence with regard to the possible connection between dioxin exposure and disease is still in progress, VA would have no objection to some limited extension of eligibility for this group of veterans. We do not, however, believe that an extension through the year 2000 is warranted.

Based on approximately 700 inpatient admissions and 98,000 outpatient visits annually, at an average cost of $6,320 and $115.80 respectively, VA estimates the cost of section 11 to be $15.8 million in fiscal year 1991, with a total cost through December 31, 1995, of $78.9 million.

Ranch Hand Study Amendments

Section 12 would amend Public Law No. 100-687 to provide that Air Force scientists and members of the Ranch Hand Advisory Committee may consult directly, with no impairment by Federal officials except as necessary to protect classified information.

Because this provision involves the Departments of the Air Force and Health and Human Services, we defer to them as to its value.

That concludes my testimony, Mr. Chairman. I would be pleased to answer any questions you or your colleagues might have.

STATEMENT OF DAVID MAIER

Chairman Applegate, Subcommittee members and staff, witnesses and guests, thank you for this opportunity to be with you today. I am very honored.

My name is David Maier. I am from Bay Village, Ohio, a suburb of Cleveland. I'm 47 years old, married, and have three children. I am employed as an estimator for the Superior Alloy Steel Co. of Cleveland. I am a veteran of the U.S. Navy and the Vietnam War, having served aboard the U.S.S. Westchester County (LST-1167), between April 1967 and December 1968. The ship was homeported in Yokosuka, Japan, but most of my tour was spent in and around Vietnam.

As you can see, I am a forequarter left arm amputee. I lost my hand, forearm, upper arm and shoulder due to cancer surgery to save my life at the Mayo Clinic in Rochester, Minnesota on June 30, 1977. It was a rare soft tissue cancer in my shoulder.

It is my intention today to explain to this subcommittee the facts of my case and the reasoning and common sense logic I used to conclude that my cancer is the result of my military service in Vietnam and exposure to the herbicide Agent Orange. Finally, I will ask that this committee move on the legislation before it, H.B. #3004, to provide presumption of service connection for this disease.

My primary duty aboard ship was that of disbursing clerk. I was a second class petty officer and maintained the pay records and associated records and reports for the officers and crew aboard ship, which numbered 150 men. I believe I was exposed to Agent Orange when the ship was on station approximately 35 miles up the Mekong River, near the city of Dong Tam, Vietnam. The ship was acting as a station ship or base camp with other ships supporting the operations of the Navy's Mobile Riverine Force and Army units in the area. Troops would come aboard and receive hot meals, hot showers, see some movies, and get a couple of nights' sleep in a bunk, before returning to their duties in the field.

The ship was unable to store the large quantities of fresh water required for the needs of the crew, and the possible 400 troops it could be servicing daily in this operation. Consequently, the ship's water systems were specially rigged to draw water from the Mekong River (to be used basically untreated) in the toilets, showers, sinks and laundry area of the ship. The drinking fountain was secured, and we were told not to drink the water. It looked and smelled awful. Today we know the water was full of Agent Orange runoff from the Ranch Hand spraying operations because much of the country drained into the Mekong River. Also, the Navy itself was spraying Agent Orange along the banks of the river. This was done most heavily during 1967 and 1968, the time I was there. Today, I know I was showering and shaving daily in water

full of Agent Orange. River water was put through the ship's distilling plant for cooking. We are left with the question, can dioxin be removed from water by distilling it? In this case the answer is irrelevant because during the periods the ship returned to the open seas, the ship's water system--the same plumbing as in the Mekong River--was flushed out, put back into normal use, and the drinking fountain turned on again.

My tour aboard the U.S.S. Westchester County would have been considered most uneventful if it had not been for an explosion that ripped through the ship at 3:22 a.m. November 1, 1968 while on station in the Mekong River. When we secured from General Quarters many hours later, 29 men had been killed, 17 of them crew members; the others were troops aboard ship at the time of the blast. It was presumed that an enemy swimmer had planted an explosive device to the side of the ship.

Despite the fact that the blast was within a few feet of where I was sleeping, I came away without a scratch. Many of my shipmates were awarded the Purple Heart for wounds they suffered.

The ship received temporary repairs in the river and returned to Yokosuka, Japan where it was put into dry dock to repair the extensive damage. I was transferred back to the States for separation from the service, my two years of active duty completed. I went back to college and completed my degree in business administration at Cleveland State University, with the help of the G.I. Bill.

It was about five years after leaving Southeast Asia, in 1974, that I became aware that I was having some health problems. I was employed in banking in a management position. It started out as joint pain in my knees, ankles, elbows and wrists. Later the pain was more concentrated in my left elbow. After seeing a number of doctors it was diagnosed as tennis elbow. I received a series of cortizone shots and finally, as a last resort to stop the ever-increasing pain, tennis elbow surgery. Two and one half years later I was taking 14-16 aspirin a day for the pain. My doctor claimed he had done all he could do. He said it must be arthritis or rhumatism and I would have to learn to live with it. I couldn't! The pain became unbearable, now shooting up my arm and neck and to my head. It was hard to be rational when I was in such pain. Exploding at my doctor for his inability to find out what was wrong with me, I agreed to a series of full body X-rays. He was fully confident that nothing was going to be found. He was fully taken aback when a tumor showed up in the X-rays. In layman's terms, it looked like snowflakes in the bones of my shoulder and upper left arm. I had finally convinced a medical person that there was something the matter with me and that it wasn't just in my head.

I then underwent weeks of testing in my local hospital, without conclusion. The doctor did a biopsy of the upper humerus, removing a tumor the size of a walnut. It could not be identified even after consultation with other hospitals and medical schools. The doctor assured me it could not be cancer because I was too young. I was only 34.

The assumption was made that the tissue sample was that of a very rare blood disease. The tumors were in the soft tissue of my shoulder bones. I was referred to the Mayo Clinic in Rochester, Minnesota where there was an expert in this rare blood disease.

After additional extensive testing, the diagnosis of angiosarcoma, a soft tissue sarcoma cancer, was made. The doctor hypothesized that the cancer was eating through the nerves in my shoulder, sending false signals of pain in the elbow to my brain. This is commonly known as referral pain.

Because this was a very aggressive cancer and it was determined to be in Stage 3, (Stage 1 being the early stage with best chances of recovery, and stage 4 being the point at which cancer is usually terminal) surgery was performed immediately. It was followed up with a three-month grueling chemotherapy program in Cleveland, monthly chest X-rays, and check-ups every 6 months at the Mayo Clinic in Minnesota. The doctors were positive and hopeful about my full recovery, sparing me the fear they had that the cancer would spread to my lungs very soon.

Through the prayers and support of family, friends, many people whom I hardly knew, and the grace of Almighty God, I made it! I have not been on any type of medication since that time. All of my check-ups have been excellent. I have adjusted to my disability, and looking back, it truly was a miracle!

Through the months that have now turned into years, I had just one question--where did this terrible rare cancer come from? I am from a family with grandparents living well into their eighties and nineties, and not a single case of cancer in the family. I was never a cigarette smoker and I had not been exposed to known carcinogens that I knew of.

When I was so upset with my local doctor for not recognizing what I had and properly diagnosing it, the Mayo Clinic doctors said that this cancer was so rare that most busy surgeons in major hospitals <u>never</u> see a case of it. Only because they were a world-wide cancer referral center were they familiar with it.

After no recurrence of the disease for five years, a cancer patient is usually considered to have made it. It was my five-year benchmark when I got the answer to my question, "where did my cancer come from?" It came in the form of an article in the

Cleveland Plain Dealer, our local newspaper, that reported on an article appearing in the New England Journal of Medicine in 1982. Two doctors at Emory University School of Medicine reported three cases of Vietnam veterans who had been exposed to Agent Orange and had soft tissue sarcoma cancers. They felt the find very significant because of the extreme rarity of this cancer in the general population. This was the same rare cancer I had! Knowing this, it was not hard to figure it out. I had been exposed to Agent Orange and its cancer-causing by-product, dioxin, in the water of the Mekong River. The hardest part was realizing that I was a casualty of war because of actions of our own government.

I was anxious to lend my assistance to solve the increasing controversy about Agent Orange and the list of diseases veterans were now attributing to it. I wrote the doctors at Emory University and told them about my own case of soft tissue cancer. They wrote and advised me to have an Agent Orange screening exam at my local V.A. Hospital. They asked me to have the V.A. obtain a tissue sample of my cancer and forward it to the Armed Forces Institute of Pathology in Washington, D.C., so it could be included in further studies.

I did all of this and it developed into the claim I filed for service connected disability. It was initially denied like thousands of others. It was taken on appeal by the Vietnam Veterans of America Legal Services. After two hearings in Washington, D.C., before the Board of Veterans Appeals, and eight years later, it remains undecided.

My story is not unique, except that I survived physically and mentally because I made a conscious choice to pick up and move on with life. A few days after my surgery a nurse remarked how cheerful I was considering what I had just been through. My answer was that I was so happy to be alive and that the terrible pain (the cancer I had) was diagnosed and removed. There were still many obstacles to overcome, particularly in day-to-day living--have you tried getting ready to go into your office using only one hand (shaving, buttoning a shirt, zipping trousers, eating, etc.)? Have you tried picking up and holding your newborn child with one arm and hand? Have you tried helping a toddler learn to walk by holding both of their hands in your one? Have you tried a simple wiring or wood project at home with one hand? All of this is frustrating, but minor, in comparison to wondering if any ache or pain is a recurrence, or if you will see your next birthday, or if you will live long enough for your children to remember you.

I have told you my story today to give you a glimpse of what many Vietnam veterans are going through. I also have had the persistence in my reliance on the truth to stand up to a government that has not honored its commitment to all of its veterans.

The tissue samples I supplied to the Armed Forces Institute of Pathology were excluded from the Selected Cancers Study because my cancer was diagnosed prior to December 1984. This is because of the study's assumption that most cancers have a latency period and take 20 to 30 years from an exposure that initiates the cancer process and the clinical appearance of the cancer. The rationale is for excluding early cancers that probably had their origins before a person's service in Vietnam. In this generalization there is total disregard for the amount of exposure, the tolerance of a person's immune system, and their relationships to the clinical appearance of the cancer. To me it is a cover up by scientists, influenced by the government agency they represent.

There are thousands of Vietnam veterans who are suffering and dying from their rare cancers caused by Agent Orange exposure. They are unable to be here. It is for all of us that I urge you to pass this legislation. To heal this generation of patriotic Americans we must acknowledge what has been done to them. It is only then that the genius of our modern medical community can take these mistakes and learn from them. There is information here that I'm sure can play a part in the cure of cancer. In it there is hope for the key to solving problems of genetic alteration by toxins in our environment. The question of birth defects in the children of veterans has hardly been touched.

During the Vietnam War, my shipmates and I never doubted, even for a minute, that if we were injured or even killed--by hostile or "friendly" fire--we would be taken care of by our country and our families would be provided for. These rare cancers and diseases are the direct result of our service during the Vietnam War and they are just as disabling and deadly as conventional weapons. I urge you to make good on your commitment to those who have fought for their country.

Remarks presented by David Maier, May 2, 1990, before the Subcommittee on Compensation, Pension and Insurance, of the Committee on Veterans Affairs, U.S. House of Representatives.

TESTIMONY OF MR. WILLIAM W. LEWIS ON HR 3004

May 2,1990

New Jersey Agent Orange Commission
P.O. Box 1717
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Rutgers University
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(Mr. Lewis is the Project Director for the Pointman research project, a joint effort of the Commission and the University. Mr. Lewis served in Vietnam with the Marine Corps during 1968.)

My testimony today covers the following areas:

1. Brief remarks concerning the Agent Orange Commission and the Pointman study.

2. Progress of Pointman II.

3. Efforts of Pointman III.

4. Personal Commentary.

THE NEW JERSEY AGENT ORANGE COMMISSION AND POINTMAN

The New Jersey Agent Orange Commission was created by the state legislature in 1980. The role of the Commission was to provide assistance and information to Vietnam veterans and their families concerning Agent Orange, to conduct outreach efforts as practical, and to conduct research.

The Pointman project began in 1984 under the direction of principal investigators Dr. Peter Kahn of Rutgers University and Dr. Michael Gochfeld of the University of Medicine and Dentistry of New Jersey.

The research program is called the "The Pointman Project" after those infantry soldiers that led their units in Vietnam. It was felt that the name is particularly fitting in describing Vietnam veterans acting as "pointmen" for society in learning about the health effects of dioxin exposure.

The results of Pointman I were published in the Journal of the American Medical Association in March,1988. That study found elevated levels of dioxin in participants who had been directly exposed to herbicides as spray handlers.

POINTMAN II

Pointman II was funded by a grant of $675,000 from the New Jersey Legislature. The project began in December 1987, and we completed the physical testing of the last of the participants in this phase in March of this year. We are now awaiting results of dioxin analysis for these participants, and we expect to have preliminary information in June.

During this phase of the project we examined 70 participants representing an Army ground unit, a Marine ground unit, and members of Navy river patrol craft who served in the Mekong Delta. None of these participants were in direct contact with Agent Orange as part of their military duties. Our objective here, at least insofar as dioxin analysis is concerned is to determine if we find elevated levels of dioxin in people we believed were heavily exposed to Agent Orange as a result of the environment in which they served.

As we await the results of the dioxin analysis from Pointman II, we are in the process of of collating and analyzing both medical and psychological data obtained from both Pointman I and II. In addition, we are in the final planning stages of Pointman III which we expect to get under way in the near future

POINTMAN III

Pointman III is planned to be the most ambitious phase of our research to date. We have planned a three part study that will include a study of women veterans, a birth defect study in conjunction with the New Jersey Department of Health, and a collaborative study based upon the American Legion/Columbia University (Stellman) effort.

We have received preliminary funding from the state in the amount of $800,000 to begin this effort. Additional funding, however, is uncertain due to extreme fiscal difficulties within the state at this time. We will be able to begin the project, but we may be forced to modify or reduce the scope of this program if forced to do so by fiscal restraints. Work, however. is continuing.

COMMENTARY

Fifteen years ago, Saigon fell to the North Vietnamese. I remember vividly the news reports that the war was over. At that time, we as Vietnam veterans had little inkling that the war was not over for many of us, and indeed might continue for many years. Last week Time Magazine chronicled the anniversary of the fall of Saigon with its cover story. Fifteen years later, Vietnam still haunts us. For many Vietnam veterans and their families, the pain and suffering continues. Agent Orange has become the intolerable legacy of Vietnam for many of those who fought the war.

We are here today to offer support for HR 3004. We believe that such presumptive disability legislation is long overdue. While we firmly support on-going research efforts, it has become abundantly clear that science and research are not going to provide clear-cut answers to the question of health effects from herbicide exposure in the immediate future. In the meantime thousands of veterans and their families suffer from a host of health problems that may well be connected to such exposure.

Over the past ten years we have been in contact with thousands of veterans and their families. These people are confused and fearful that Agent Orange has had a negative effect of their lives. Allow me to share with you a brief quote from a letter I received from a veteran in California:

" What can I do ? I'm trying various diets, taking a stress reduction course and trying to maintain. But I am not at all close to that elusive 'quality of life' and at times I can hardly drag myself to work or even to do fun activities. I cannot control the pain - I've learned to endure but when it gets fierce it is almost unmanageable. I'm beginning to doubt my sanity, yet I know there is something wrong internally but I cannot find out what."

Those of us who work with Vietnam veterans hear statements like this all the time. There are too many veterans suffering for this to be coincidence. Indeed, there is a continuing body of evidence to suggest that the health problems of Vietnam veterans and their children are all too real.

I frequently travel around the country and have learned that Agent Orange is a major concern of veterans. Most want to know what the federal government is doing to help them and many believe that their government simply doesn't care about them. They want to have faith and trust that the government will do the right thing, but that faith and trust weakens as years go by and the government seems hung up in the windmill of endless debate over whether or not there has been "enough" scientific proof that Agent Orange exposure has caused harm. There will never be "enough" proof to satisfy some, and veterans will continue to suffer unless something is done to help them.

Americans are a compassionate and caring people. Surely we have proved this around the world and through the years with countless examples of generosity to those in need. Vietnam veterans deserve the same caring and compassion we have shown to others. HR 3004 is a first step in the right direction. It is a signal to veterans that their service was meaningful, and that the nation cares enough to take care of them in their need.

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STATEMENT OF

THE VIETNAM VETERANS OF AMERICA, INC.

Presented by

MARY R. STOUT
NATIONAL PRESIDENT

and

PAUL S. EGAN
LEGISLATIVE DIRECTOR

Before the

HOUSE VETERANS AFFAIRS SUBCOMMITTEE ON
COMPENSATION, PENSION AND INSURANCE

on

AGENT ORANGE LEGISLATION, HR. 3004

MAY 2, 1990

Mr Chairman and members of the Subcommittee, the Vietnam Veterans of America, Inc. (VVA) appreciates the opportunity to present its views at today's hearing on the merits of HR. 3004, the bill designed to offer disability compensation for five diseases believed to be scientifically linked to exposure to dioxin or other toxic agents used for defoliation purposes in Vietnam or elsewhere.

The bill also would require the VA to contract for the first time with a non-governmental scientific entity for the purpose of obtaining recommendations on additional diseases for which compensation should be provided based on a review of existing and ongoing scientific studies. The standard to be used by this non-governmental scientific entity appropriately recognizes that a reasonable association between exposure and disease is all that should be needed to recommend the awarding of compensation for added diseases. The VVA supports this legislation as a modest step toward a long term resolution to this issue and asks the subcommittee's support for this legislation as a realistic way in which to secure unbiased information on what the science actually suggests about the harmful effects of exposure.

The specific diseases to be presumed service connected in HR. 3004 are chloracne, non-Hodgkins lymphoma, soft tissue sarcoma, basal cell carcinoma and melanoma. The estimated first year cost of the bill, according to the Congressional Budget Office (CBO), is $89 million. This cost estimate was made prior to Secretary Edward Derwinski's recent decision to award disability compensation to veterans with non-Hodgkins lymphoma (NHL). Since the Secretary's decision on NHL obviates the need to include this particular disease in the bill's cost estimate, the actual cost can be expected to be considerably less than the original estimate, $20 million less as we understand it.

Apart from NHL, most of the other diseases identified in the bill are skin-related maladies known to be related to

dioxin exposure. Few of these are necessarily costly. Chloracne and basal cell carcinoma, for example, are typically self limiting problems that are either usually curable or are only moderately disabling. Soft tissue sarcoma on the other hand can be considerably more serious, in fact fatal for some, but also implicated in scientific studies that have already been concluded.

Importantly, the provisions of this bill requiring a non-governmental review of the science should be understood, properly as just that, a review. Nothing in these provisions should be construed to constitute an additional scientific study. Once the review is completed and recommendations are forwarded to the VA Secretary, it would fall to the VA Secretary to decide whether to authorize disability compensation for additional diseases. In the event there were disagreements between the VA Secretary and the recommendations contracted for, the Congress could again step in if it chose to do so.

What is so terribly important here is that veterans for the first time would be given a reason to trust the process of scientific review. Sadly, the government enjoys no credibility on the Agent Orange issue from the affected veterans community. The mistrust of veterans in their government on this subject has developed over the course of an entire decade. First, and until very recently, the VA dragged its feet. Later, the Air Force Ranch Hand study's initial and subsequent findings were deliberately manipulated and finally the quasi-governmental Centers for Disease Control (CDC), presumably under the direction of the White House Domestic Policy Council, followed the Air Forces's lead in misleading the public as to the dangers of exposure to dioxin. What veterans have now come to conclude is a simple lesson; if there is a serious question involving government liability, the last place to go for judgements on the extent of that liability is the government. The VA, the Air Force and the

CDC, all government entities, have consistently proven the validity of this simple lesson.

CDC's Selected Cancers Study

This particular study was designed to determine whether veterans were more likely than non-veterans to be afflicted with any of six rare cancers. Some eight regions of the country were sampled to accumulate a study group of individuals with these rare cancers. Once assembled, the CDC sought to determine who among this group were veterans and who were non-veterans.

Since the cancers studied are rare, the study group was relatively small for each of the six cancers. This being so, the study had serious limitations to begin with. The study concluded that veterans have a 50 percent greater likelihood of becoming afflicted with NHL than non-veterans. No statistically valid evidence of increased risk for veterans with the other five rare cancers was noted.

Once the veterans with each of the six cancers were identified, the CDC attempted to determine whether any of them were likely to have been exposed to Agent Orange. Importantly nothing done in this study was designed to actually determine or measure exposure to Agent Orange. This being so, this study cannot be said to be an exposure study. The CDC has conceded this point, but only grudgingly under tough questioning by the full House Committee at its April 4 hearing. Moreover, the limitations of this study are such that the chief investigator on this study, Dr Edward Brann, was forced to further concede, again grudgingly under tough questioning, that this study "cannot rule out a 30-40 percent increased risk in veterans for the five cancers other than NHL."

What is so troubling as well as revealing about this study has more to do with CDC's conduct of itself in releasing the study's findings than with what the findings of this limited study actually show. Even though the CDC knew very

well that this study was neither an exposure study nor a study without serious limitations, their news releases and public explanations of the study's findings were fashioned in a way deliberately designed to be misleading.

In saying, for example, that this study shows no increased risk to veterans for five of the six cancers studied as a result of self reported exposure to Agent Orange in Vietnam, the CDC deliberately attempted to mislead the public into believing that actual dioxin exposure holds no increased risk for veterans getting five of the six cancers studied. Dissemblement and slight-of-hand manipulations on the part of CDC in releasing its findings has to be characterized as irresponsible and unbecoming of an agency relied upon by the public as a definitive authority on scientific questions.

Similarly, the CDC suggests that exposure to Agent Orange in Vietnam is unlikely to cause an increased incidence of NHL. This suggestion is based on their finding that NHL is more likely in "blue water" Navy personnel than in "brown water" Navy personnel. In making this rather sweeping suggestion, the CDC knows very well that the finding is contradicted by other less limited studies, the VA's longetudial mortality study for example.

These suggestions, moreover, that no increased risk for veterans in five of the six cancers studied and no increased risk even for the one cancer the study showed to be more likely in veterans than non veterans, demonstrate that the CDC apparently chose deliberately to remain silent on the extremely relevant point of how this study stacks up against others.

What makes the CDC's performance in releasing this study's findings so disingenuous and easy to criticize is that the CDC has gone so far in their suggestions as to lead the public into believing dioxin is harmless, a conclusion that defies common sense. Mr Chairman, the CDC has not stopped at mere dissemblement, it also came before this committee on April 4 and told you their findings were supported by other studies such as the Air Force Ranch Hand study.

Presumably, they seized upon the Ranch Hand study as an excuse for failing to conduct a legitimate exposure study themselves, as mandated by Congress. In referencing the Ranch Hand study last month and in relying on that study's rather twisted findings to vindicate themselves, the CDC asks you to assume the Ranch Hand study is a valid scientific study; it is not and what is worse the witnesses at the April 4 hearing knew it.

American Legion And VVA Scientific Task Force

Mr Chairman, we are pleased to be able to report the results of a scientific task force study undertaken by The American Legion, and VVA and the National Veterans Legal Services Project. The task force study consists of a review of dioxin studies by a variety of prominent scientists with expertise in the field of dioxin exposure. The studies reviewed by the task force include all those having been reviewed by the VA's Advisory Committee on Environmental Hazards as well as many others that for whatever reasons were not reviewed by the VA.

Each of these independent scientists were given the same exhaustive list of studies and asked to identify any diseases for which a statistically significant association between exposure and disease could be found. This standard, as the subcommittee knows, is the same standard the VA was supposed to have used in its review of the same studies. Given the VA's history on this issue until very recently, it should surprise no one that the independent review concluded that eight different health effects bear a statistically significant association with exposure to dioxin or other toxic agents used in Vietnam. These include non-Hodgkins lymphoma, soft tissue sarcoma, skin disorders/chloracne, subclinical hepatotoxic effects, porphyria cutanea tarda, Hodgkins disease, neurologic effects and reproductive as well as developmental effects.

Given these findings, it is not only clear enough that some version of HR. 3004 should be approved by the House

Veterans Affairs Committee, but that this bill should be enhanced to accommodate diseases and health effects the bill currently fails to include. Moreover, the study also concludes that there may be a significant statistical association between exposure and the following diseases: leukemias, cancer of the kidneys, cancer of the testis, cancer of the pancreas, cancer of the stomach, cancer of the prostrate, cancer of the colon, cancer of the hepatobilliary tract, cancer of the brain, psychosocial effects, immunological abnormalities, gastrointestinal ulcer and altered lipid metabolism.

In making these latter conclusions, the task force found strong indications that Agent Orange may cause these diseases but that more studies must be conducted and reviewed before a finding of a significant statistical association can be established.

Under the circumstances, the need for further scientific studies and review engendered by the conclusions on the latter diseases strongly underlines the need for those provisions in HR. 3004 that require an independent, non governmental review of the science on an ongoing basis.

In conclusion, Mr Chairman, the legislation before you constitutes a legitimate and moderate mechanism for providing an enduring resolution to the Agent Orange issue. Importantly, it represents a solution in which veterans can place their trust. This bill should be cleared for a full committee and full House vote.

Mr Chairman, that concludes our statement.

STATEMENT OF JOHN F. SOMMER, JR., DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
MAY 2, 1990

Mr. Chairman and Members of the Subcommittee:

The American Legion is pleased to take the opportunity offered in today's hearing to both speak to the legislation under consideration, H.R. 3004, and to address several other concerns relating to the long-term health effects of Agent Orange on those Vietnam veterans who were exposed to the herbicide.

As you are aware Mr. Chairman, this subject is a priority of The American Legion, and will continue to be so until all of the questions are answered.

The first issue we shall discuss are the collective studies of the Centers for Disease Control which were originally supposed to be considered as Agent Orange research. Since the recently announced Selected Cancers Study is fresh in our minds, let us begin by addressing the study.

The American Legion is hopeful that everyone now realizes that the Selected Cancers Study is not, and never will be an Agent Orange Study, regardless of the misleading statements that have emanated from officials of CDC. It had originally been considered as an "add on" so to speak, to the epidemiological study of the long-term health effects of Agent Orange exposure mandated by P.L. 96-151 in late 1979. This is the study the Veterans Administration could do nothing with, so CDC took over the responsibility in January 1983, through completion of an interagency agreement with VA.

The American Legion expressed concern about the fact that the Agent Orange study had become mired in major administrative and methodological problems that forced the study to a standstill in mid-1985, when the study began to deteriorate. There were several changes in the position of the study director. CDC began working outside of the originally approved study protocol, which resulted in the Office of Technology Assessment recommending that the study be delayed until a revised protocol was developed and approved, to include an acceptable exposure assessment method.

It was no surprise to The American Legion then, that after conducting a pilot study of its own design, CDC, in 1987, concluded that the study could not be done.

Among the veterans eliminated from consideration were those who served more than one tour in Vietnam, those who served in a particular unit for less than 180 days, those who were above the rank of E-5, those who transferred from one unit to another during their tour, and any veteran who served any number of days before or after the

proposed study window (January 1967 - December 1968). These constraints eliminated thousands of veterans, many of whom were no doubt heavily exposed to Agent Orange. In fact, it has been reported that 83 percent of the original study subjects were disqualified based on criteria established by CDC. The findings, but not all of the relevant data, were published in the Journal of the American Medical Association in September 1988.

Mr. Chairman, the United States sprayed more than 12 million gallons of Agent Orange over a country that is smaller than the State of New Jersey. Therefore, it is absurd in our opinion for CDC officials to state that they could not find enough people to study. It is most unfortunate that CDC was permitted to develop and conduct a study that was destined to fail.

This is particularly true when one considers that the claim set forth by CDC of its inability to locate a measurable sample of exposed veterans was refuted by The American Legion and Columbia University Study of Vietnam Veterans, the findings of which were published in the December 1988 issue of the respected scientific journal Environmental Research.

In May 1988 CDC published the findings of the Vietnam Experience Study which, once again, did not measure Agent Orange exposure.

The CDC's latest effort, the Selected Cancers Study, is not a study of the results of Agent Orange exposure. Therefore, as with the others, it does not comply with the mandate set forth in P.L. 96-151 for a study of the long-term health effects of Agent Orange exposure.

However, most unfortunately, the study report refers repeatedly to Agent Orange, and together with carefully developed press releases relating to the study tend to mislead the American public - particularly Vietnam veterans and their families - into thinking that Agent Orange is not harmful.

With respect to the Selected Cancers Study, CDC studied only 166 Vietnam veterans with cancers. An exposure index was not used to determine whether or not there was any actual exposure to Agent Orange, and - if so - to what extent the individual was exposed. Instead, CDC used the very technique it has routinely condemned when used by others - self reporting of exposure.

We find it most interesting to note that whenever findings based on self reports are negative and do not help the cause of veterans, as in this case, CDC emphasizes that self reports are valid scientific tools. However, when the data emanating from such reports are positive, as when it was reported that the wives of Vietnam veterans have more

miscarriages, then CDC ignores self reports, dismissing them as scientifically unreliable.

It is high time that the Centers for Disease Control be forced to cease what has gotten to the point of appearing as scientific fraud. CDC has spent an estimated $63 million on studies involving poorly defined criteria, faulty study samples and skewed data. After spending all of that money and years of valuable time, CDC concluded that it cannot conduct an Agent Orange study. This, in our opinion, defies all belief, when we know that the areas where military units were located in Vietnam can be determined, as can the areas where and when Agent Orange was sprayed. It is not impossible to develop an exposure index.

Mr. Chairman, just yesterday an important report was released by The Agent Orange Scientific Tosk Force of The American Legion, the Vietnam Veterans of America, and National Veterans Legal Services Project, which relates to Agent Orange and the Vietnam veteran. The report contains a review of the scientific literature on human health effects associated with exposure to herbicides and/or their associated contaminants - chlorinated dioxins.

The purpose of this literature review is to assess the adverse health effects in Vietnam veterans which may be associated with Agent Orange, a phenoxyacetic acid herbicide which was contaminated with dioxin.

A summary of the results of this review, conducted by a group of highly qualified independent scientists, shows that there is a significant statistical association between exposure to Agent Orange and non-Hodgkin's lymphoma, soft tissue sarcoma, skin disorders/chloracne, subclinical hepatotoxic effects and porphyria cutanea tarda.

In addition, the review reflects that there is at least as likely as not a significant statistical association between exposure to Agent Orange and Hodgkin's disease, neurologic effects, and reproductive and developmental effects.

The summary of results states there may be a significant statistical association between Agent Orange and thirteen additional diseases or effects, nine of which are cancers.

Mr. Chairman, we commend this report to the Subcommittee, and ask that a copy be incorporated in the record of this hearing.

As is stated in part in the introduction to the Task Force report, for many years those who do not favor the payment of disability and death benefits to Vietnam veterans exposed to Agent Orange or their families, have based their opposition on the assertion that there is not enough scientific evidence to link Agent Orange exposure with any

disease other than chloracne. The Department of Veterans Affairs is currently conducting a rulemaking proceeding under mandate of a statute and a federal court order that focuses on this very issue.

Because we have not been satisfied with the efforts of VA's Advisory Committee on Environmental Hazards in this rulemaking process, it was decided that it is essential for a fair resolution of the Agent Orange issue that a group of independent scientists address the issues currently under consideration by the Congress and VA. This is the predominate reason for which we assembled the Agent Orange Scientific Task Force, the members of which are prominent independent scientists who are knowledgeable about the scientific literature concerning the health effects of exposure to dioxin.

The American Legion is convinced that the Task Force Report is an important contribution to the information available to the Congress, Department of Veterans Affairs, and other agencies who are involved with this important issue.

Mr. Chairman, we shall now address H.R. 3004, a bill which The American Legion feels sets a positive and responsive course in addressing the responsibility of the federal government to compensate those Vietnam veterans who are suffering from diseases and disabilities as a result of Agent Orange exposure, and the families of those who have died.

Section 2 of this measure sets forth certain findings made by Congress attesting that:

(1) There is sufficient evidence and experience to warrant a presumption that certain diseases suffered by veterans of service in the Republic of Vietnam during the Vietnam era are connected to such service.

(2) There is sufficient scientific evidence to warrant a presumption that exposure to dioxin or other toxic agents in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era causes a range of significant adverse health effects associated with carcinogenicity, reproductive toxicity, and immunotoxicity in humans.

(3) The Secretary of Veterans Affairs has determined that it is reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was exposed to dioxin and other toxic agents in herbicides during such service.

(4) It is also reasonable to presume that any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era was

exposed, during such service, to other causes of disease.

Section 3 of this bill would amend section 312 of title 38, United States Code, to provide that in the case of a veteran who served in Vietnam during the Vietnam era, the disease of chloracne shall be considered to be service-connected, if such disease or another acneform disease consistent with chloracne becomes manifest to a 10 percent degree of disability or more within one year after the last date on which that veteran performed such Vietnam service.

This a definite improvement in the presumption of service connection for chloracne. Regulations currently provide only a three month presumptive period. Only a handful of claims have been allowed for veterans suffering from this disease thus far. We fully support an amendment to section 312 of title 38, United States Code, expanding the presumptive period to one year. Ample scientific evidence exists to document the service connection of this rare skin disease.

Section 4(a) of this measure would amend section 312 of title 38, United States Code, by adding a new subsection (e), for presumption of service connection, in the case of a veteran who served in Vietnam during the Vietnam era, for non-Hodgkin's lymphoma, soft-tissue sarcoma, melanoma and basal cell carcinoma.

Subsection 4(b) would provide compensation and dependency and indemnity compensation to any veteran or person on the basis of a presumption provided in subsection (e) of section 312. The award would take effect the date on which VA first received an application claiming entitlement to the benefit on the basis of the disability or death of a veteran resulting from one of the diseases referred to above.

Mr. Chairman, The American Legion supports the intent of the presumption of disability compensation and dependency and indemnity compensation for these diseases related to herbicide exposure in the Republic of Vietnam. We believe, however, that the presumption related to certain diseases should not be limited to those diseases identified in section 4(a) of this bill. Rather, we believe the list of diseases on which the basis of presumptive disability and dependency and indemnity compensation should be based are reflected in the Agent Orange Scientific Task Force study recommendations.

We fully support the applicability of presumption as proposed in section 4(b) of this bill.

Section 5 of H.R. 3004 sets forth a series of statements which are designated as Congressional findings. Those findings are as follow:

(1) It is in the public interest to provide for an independent nonprofit

scientific organization which has appropriate expertise and is not connected to the Department of Veterans Affairs to review and evcluate the available scientific evidence regarding association between diseases and exposure to dioxin and other chemical compounds in herbicides and to make judgments on the degree and probability of such associations, because there is no uniform body of scientific literature on such issues.

(2) The standard of proof required for a scientific conclusion of causation is higher than the standard of proof required for justification of a presumption, for purposes of veterans disability compensation laws, that an adverse health effect is connected, based on sound medical and scientific evidence, to active service in the Armed Forces of the United States.

Section 5 further establishes new section 312A which would be added to title 38, United States Code, to provide that in the case of a Vietnam veteran who was exposed to a herbicide containing dioxin or 2, 4, dichloro-phenoxyacetic acid or to any other herbicidal agent, each disease (if any) listed in VA regulations pursuant to this section and identified as having a positive association with the biological effects of exposure to such herbicidal agent would be considered to have been incurred in or aggravated by such service, notwithstanding there is no evidence of such disease during the period of service. The Secretary would also be authorized to extend the applicability of this provision to individuals who during the performance of their military service outside of Vietnam were exposed to such herbicide agents.

This section further provides that when the Secretary determines there is positive association between any disease and the biological effects of herbicide exposure, regulations are to be prescribed listing each disease having a positive association. With respect to each such disease, the herbicide agent that causes the biological effects with which the disease has positive association is to be listed. After these regulations are prescribed, they are to be revised, as appropriate, to reflect periodic determinations by VA to see whether any disease not listed in the regulations has positive association with such effects, and conversely, to determine whether any disease listed in the regulations does not have a positive association with effects.

The language in Section 5 would direct the Secretary to make the foregoing determinations on the basis of reports from a contract scientific organization, and all other relevant scientific evidence, information or analysis available at the time the determinations are made.

Each contract entered into under the provisions of this section is to provide for an

independent scientific organization to determine in the case of each herbicide agent, which diseases, if any, have either positive, limited positive, or insubstantial association with the biological effects of exposure to a herbicide agent, including such specific effects as porphyrin synthesis, nervous system function, immune function, reproduction and birth defects, as well as psychological and psychiatric effects. The contract scientific organization would also specifically determine whether there is a positive, limited positive, or insubstantial association between such biological effects and non-Hodgkin's lymphoma, each soft-tissue sarcoma other than osteosarcoma, condrosarcoma, Kaposi's sarcoma, or mesothelioma; lung cancer, and each other cancer.

In addition, with respect to each disease determined to have a positive association, the contract organization's report to the Secretary and to the Congressional Committees on Veterans Affairs is to include a discussion of the biological basis for the association, an estimate of the statistical significance of the association, and an estimate of the relative health risk for such disease(s) in Vietnam veterans, and whether there is a reasonable basis for concluding that a Vietnam veteran with the highest level of exposure to that herbicide agent was exposed under the circumstances necessary for such biological effects.

This proposal also requires that under the first contract entered into with the scientific organization a comprehensive survey and evaluation of completed and ongoing scientific studies, including the CDC Selected Cancers Study and other evidence on the effects of exposure to herbicides is to be conducted. This survey and evaluation is to be performed by a panel of experts in the fields of toxicology, medicine, epidemiology, statistics, biochemistry, and related fields. The conduct of the survey shall be subject to appropriate peer review.

Each contract entered into pursuant to this section would require the scientific organization to conduct as comprehensive a survey and evaluation as is practicable of the scientific studies, evidence, and information regarding the effects of herbicide exposure on humans or other animals that have become available since the last survey and evaluation. Determinations and estimates are to be made on the basis of the instant survey and evaluation, as well as all others that have been conducted for the purposes of this section. Specific provisions are set forth relating to the content of the reports that are to be transmitted to the Secretary and the Committees on Veterans Affairs.

Likewise, instructions are included in this section relating to the time frame in which the Secretary is to propose regulations relating to positive and non-positive

associations contained in the reports of the scientific agencies, and transmit reports thereon to the Committees.

Mr. Chairman, The American Legion fully supports the establishment of this mechanism under which VA would be required to determine, based for the most part on bienniel independents scientific reviews covering all relevant evidence, those diseases for which disability and death benefits should be paid based upon a positive association with exposure to Agent Orange or other toxic chemicals in Vietnam.

As the members of this Subcommittee are aware, P.L. 98-542, the "Veterans' Dioxin and Radiation Exposure Compensation Standards Act", provided VA with the authority to determine the disabilities related to Agent Orange exposure based on its interpretation of scientific and medical evidence. However, the only condition that has been recognized by the Department of Veterans Affairs since the law was enacted in 1984 is the skin condition chloracne, as previously mentioned if it is manifested not later than three months from the date of the veteran's exposure to Agent Orange.

Unfortunately, the Veterans Advisory Committee on Environmental Hazards has not recommended any additional diseases to the Secretary. The American Legion is both disappointed and concerned over the history of the Advisory Committee's review and evaluation of scientific data. This concern was addressed by the Delegates to our 1989 National Convention who adopted Resolution No. 216 which, in part, calls for legislation to amend section 6 of P.L. 98-542 so as to expand the authorized size of the Advisory Committee on Environmental Hazards to permit additional viewpoints to be represented; to authorize the Committee to consult outside experts, and to authorize an independent review of the Secretary's conclusions based on proposals of the Advisory Committee.

The authorization of an independent scientific review as set forth in section 5 of H.R. 3004 would basically satisfy the intent of this section of our resolution which enunciates The American Legion policy on Agent Orange.

Section 6 of this measure calls for the Secretary to compile and analyze on a continuing basis all clinical data obtained by the Department as a result of the Agent Orange Examination Program and report to the Congressional Committees on Veterans Affairs annually on the analysis of such information, including a discussion of the types and incidences of disabilities identified and an explanation for the incidences of such disabilities. The report shall include the Secretary's views on the scientific validity of drawing conclusions from the incidence of such disabilities contained in this data and any association with exposure to dioxin or any other herbicide agent used in Vietnam. The

report shall also include an evaluation by the Director of the National Institutes of Health (NIH) Research and Grants Division in conjunction with the National Institute of Environmental Health Sciences (NIEHS).

. Use of the Agent Orange Registry and examination records can provide the Secretary with updated information on veterans' health status. The value of these data should not be underestimated and may provide the basis for adding new diseases to the list in VA regulations for service-connected disability compensation. However, we understand that the format of the information contained in the Registry has been changed since the implementation of the examination program, and we feel an explanation of this change and the reasons for such change should also be provided the Committees, in case the information contained therein may have been skewed as a result.

Section 7 would require the Secretary to establish and maintain, directly or under contract, a system for the collection and storage of voluntarily submitted blood and tissue samples of Vietnam veterans to facilitate future research on the effects of exposure to dioxin and other toxic agents in herbicides used in Vietnam. The establishment and maintenance of this archiving system shall be in consultation with the National Academy of Sciences.

The American Legion is supportive of this proposal. Tissue sample analysis can be an excellent research tool, when used in conjunction with other evaluations and analyses. Many if not most scientists agree with the concept of multiple causation of cancer. However, there is not agreement that the carcinogen has to remain within the body for 20 years to cause cancer.

Section 8 of the bill proposes that the Secretary shall establish a program to provide for the conduct of feasibility studies as to additional scientific research on the issues of health hazards of exposure to dioxin, other toxic agents in herbicides used in Vietnam, and health hazards resulting from service in Vietnam. Such feasibility studies shall be conducted by non-governmental entities through contracts or financial assistance in consultation with the National Academy of Sciences. Reports are required to be transmitted to the Congressional Veterans Affairs Committees.

The American Legion supports this concept. It is, in our opinion, necessary that independent research be conducted absent the influence of government agencies with poor track records relating to studies of the health effects of dioxin exposure.

Section 9 would amend section 1204 of P.L. 100-687 to require the Secretary to

annually furnish updated information on health risks associated with exposure to herbicides to Vietnam veterans who are listed in the Department of Veterans Affairs Agent Orange Registry.

The American Legion is in total agreement with this proposal. We trust that the updated information would also be provided to veterans service organizations for further dissemination.

Section 10 would require the Secretary of Health and Human Services to submit to the Congressional Veterans Affairs Committees, not later than 180 days following enactment, a report discussing the research being conducted to identify and develop treatments of the physiological absorption of dioxin and other similar toxic agents in herbicides used in Vietnam, including research relating to exposure to dioxin and other toxic agents outside of Vietnam. We believe this report should be broadly focused on such research by other Federal agencies such as the Department of Agriculture, Environmental Protection Agency and all others. We do not support a measure that would allow the Secretary of Health and Human Services to define science (e.g. standards for positive association) or scientific methods in light of past experiences with that Department. However, we do not oppose the proposed reporting on the identity and treatments for absorption of dioxin.

Section 11 would amend section 610(e)(3) of title 38, United States Code, to extend to December 31, 2000 eligibility for VA health-care for Vietnam veterans based on exposure to Agent Orange. The Legion supports this extension. However, we question the need to place a delimiting date on the provision of medical care to veterans exposed to Agent Orange. The availability of treatment should be made permanent.

Section 12 would amend section 1205 of P.L. 100-687 to add the provision that the Ranch Hand Advisory Committee may consult directly with and provide information and recommendations directly to the Department of the Air Force scientists conducting the Ranch Hand Study and that such scientists may consult with and provide information and recommendations to the Advisory Committee. No officer or employee of the Federal Government may intervene or impair such direct communication between the Advisory Committee and such scientists. There is a distinct need for full and open communication and cooperation between all entities dealing with this important issue. Thus, The American Legion supports the intent of this section.

Mr. Chairman, that concludes our comments on the provisions set forth in H.R. 3004.

Given the emotional climate in which this entire matter has been and is now being considered, we believe it would be well for the federal government to lean in the direction of liberality while the remaining scientific questions are resolved.

Mr. Chairman, The American Legion is appreciative that you have scheduled hearings on this issue which is of such extreme importance to Vietnam veterans and their families. It is frustrating for those of use who represent Vietnam veterans to try to explain to them, and their families, why little or nothing is being done to determine the long-term health effects of exposure to Agent Orange, or to compensate those who are suffering chronic disabilities which they feel are caused by such exposure.

The American Legion holds fast to the position that it is the responsibility of the United States Government to use every resource available to determine the consequences of exposure to Agent Orange on those veterans who served in the Armed Forces in Vietnam, and then to adequately compensate those who are suffering from diseases and disabilities as a result of that exposure.

To date, as far as we are concerned, the government has fallen far short of its responsibility.

Mr. Chairman, that concludes our statement.

STATEMENT OF
JOHN C. BOLLINGER, ASSOCIATE LEGISLATIVE DIRECTOR
PARALYZED VETERANS OF AMERICA
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE
OF THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING
H.R. 3004 - THE "VETERANS AGENT ORANGE EXPOSURE AND VIETNAM
SERVICE BENEFITS ACT OF 1990"
MAY 2, 1990

Mr. Chairman and Members of the Subcommittee, on behalf of the members of Paralyzed Veterans of America (PVA), I wish to thank you for inviting us to testify today. We appreciate this opportunity to comment on H.R. 3004, legislation to provide permanent presumption of service-connection between certain diseases experienced by veterans who served in Vietnam and exposure to certain toxic herbicide agents used in that country during the Vietnam era.

I wish to begin by commending you, Mr. Chairman, for holding this important hearing today. Although there have been numerous Congressional hearings over the years regarding the subject of exposure to agent orange, we believe any new evidence or any new legislation must be carefully reviewed and thoughtfully considered by all of us in the veteran community. We wish to especially thank Representative Lane Evans for his deep concern for the well-being of Vietnam veterans.

The efforts by many to establish a concrete link between exposure to agent orange and certain diseases have been met with extreme frustration. Over the years we have shared that frustration - hoping on one hand to find a scientific link which would definitively justify what are presently compassionate responses to the lack of hard scientific data - and on the other hand, feeling a great sense of relief knowing that the vast majority of epidemiological evidence, to date, does not indicate a cause-effect relationship between agent orange and certain diseases.

At times, the science has not been perfect. Many times the full commitment to pursue that science has not been complete. But we are still much farther down that road than we were ten years ago. Vietnam veterans and their families now have far more answers regarding their overall health status than they did before. The millions of dollars which have been spent in this extraordinary scientific investigatory effort have been totally justified in our opinion. Still, as this investigation is pursued, we might never find the proper combination of clues which could establish a concrete link between agent orange and many of the disabilities which are perceived as being related to exposure. Although that should not prevent us from supporting any effort to do so, and although no studies, to date, can conclusively rule out that cause-effect relationship, we should be cautioned not to endorse or provide compensation for such disabilities unless we can be certain there is a realistic connection between exposure to agent orange, and its contaminant dioxin, and the disability in question.

The real bottom line, Mr. Chairman, is that modern science, for all its efforts, has not shown that exposure to agent orange causes the diseases (with the exception of chloracne) for which H.R. 3004 provides service-connected compensation. Unlike exposure to radiation, and unlike the relationship between cardiovascular disease and amputations, and unlike the diseases associated with former prisoners-of-war, sufficient evidence - in the case of agent orange - just is not there.

PVA does not believe, in good conscience, that service-connection is justifiable for disabilities that can be extrapolated to the entire Vietnam

veteran population as the result of exposure to dioxin and other toxic agents in herbicides used in Vietnam. As in the past, we believe this is one of the most consistently troubling aspects of attempting to solve the agent orange dilemma. The legislation before us today would authorize service-connected disability compensation utilizing VA's definition to quantify veterans exposed to agent orange as: "Any veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam Era."

This definition admits the current failure of science or historical record to identify who, of the three million men and women who served in Vietnam, was exposed to agent orange; when they were exposed; and how much dioxin they were exposed to. We have no definitive idea of what exposure to dioxin can do to you. We know it is highly toxic. But, again, we must emphasize that we are talking about exposure, not ingestion. In what amounts, to what degree, and over what period of time and exposure level does it manifest that toxicity in the human body.

Vietnam veterans, in a combat situation, over a period of months or years in a tropical environment, were exposed to a multitude of potentially harmful experiences and agents which can carry with them long-term deleterious effects. Severe stress reactions and disorders brought on by combat experiences are well documented to manifest long-term psychological as well as collateral physical debilitation. Likewise, exposure to a tropical environment brings contact with a host of organisms and parasites completely unfamiliar to western human physiology and medicine - not to mention the insecticides, chemicals, and drugs aimed at combating those agents to keep troops fighting in the field.

Mr. Chairman, all of PVA's members have incurred spinal cord injury, disease, or dysfunction. We see every day, and understand well, the pain and suffering that the long-term consequences of catastrophic, life-threatening disabilities can bring. We know what effects disability can have on individual veterans and their families. We are advocates for the veteran. We strongly believe the government has a definitive obligation to make restitution, and care for those who have served in defense of this Nation. We have the deepest concern for those Vietnam veterans who currently suffer debilitating and life-threatening diseases from unknown causes which they suspect to be associated with exposure to agent orange. And we know that it is natural, even necessary, as part of dealing with such diseases and disabilities, to understand why certain things happen to us. If the answers are unclear, we will, nevertheless, find explanations - valid or not. Although it would be easy, and, in our role as veterans' advocates, totally understandable to support agent orange legislation, we sincerely believe we would only be confirming and promoting a suspicion while providing no true, definitive answer to the agent orange question or the health concerns of Vietnam Veterans.

VA is currently authorized by law to provide Category A inpatient medical care for veterans who may have been exposed to agent orange. We believe this to be entirely proper as the scientific investigation into the potential effects of exposure continues. PVA also strongly supports this Committee's efforts to extend entitlement to Category A outpatient service to these same veterans. Further, PVA supports the provision which would establish a permanent presumption for the payment of disability compensation to Vietnam veterans with symptoms of chloracne that manifest themselves within one year of service in Vietnam. There certainly is sufficient evidence to indicate that the skin condition chloracne is a clear manifestation of direct exposure to the toxins contained in agent orange or other similar defoliants.

Further, according to PVA's National Resolution, our organization strongly supports any reasonable and scientifically valid research to judge the potential effects of exposure to agent orange among the Vietnam veteran population. We also support any mechanism whereby VA could assess the relative merits of providing disability compensation and survivor's benefits for disabilities which could be associated with exposure to herbicides based on the recommendation of a periodic scientific review performed by the National Academy of Sciences (NAS) or similar independent science organization. Judging the increased volume of accumulated data covering this entire subject, we believe the DVA should have the benefit of an on-going literature review accompanied by the specific advice and recommendations of an unimpeachable independent source such as the NAS to be able to make any determination on benefit eligibility.

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Regarding the recently released "Selected Cancers Study" by the Centers for Disease Control (CDC), PVA believes it was unfortunate that the study was generally perceived by many, and in some cases promoted by the media, as an "agent orange study". It was clear from the testimony delivered on April 4, 1990, before the House Subcommittee on Hospitals and Health Care that the primary purpose of CDC's study was to determine the risks of six specific cancers among Vietnam veterans. As you know, CDC found an increased risk of non-Hodgkin's lymphoma (NHL) among Vietnam veterans relative to men who did not serve in Vietnam, but no increased risk for the other five cancers which were studied.

CDC, as a secondary issue, did address the matter of exposure to agent orange to some degree. Although we must agree with the proponents of H.R. 3004 that the conclusions drawn do not conclusively put the issue to rest, PVA does find some encouragement in the findings when viewed in the context of all agent orange and Vietnam experience studies, both on-going and completed, to date. Although the conclusions drawn were based on very small populations and, as such, may not be conclusive by themselves, they at least did not indicate increased evidence of the selected cancers due to exposure to agent orange.

As you know, the Secretary of Veterans Affairs has announced, as a result of the "Selected Cancers Study", his decision to award disability payments to Vietnam veterans who have contracted non-Hodgkin's lymphoma (NHL). We understand, however, there may be some question concerning the legal authority to grant such benefits on a retroactive basis. We, therefore, reserve comment on the matter at this time except to say that, whether or not the legal authority exists, we believe Secretary Derwinski has demonstrated a sincere willingness to resolve this issue as compassionately as possible.

By granting service-connection for Vietnam veterans with NHL, the Secretary has awarded benefits in much the same manner as we suggested in our testimony before the Senate Committee on Veterans' Affairs on May 12, 1988. As we stated then, the only way we can solve the agent orange question, other than through new scientific evidence, is to look not at agent orange but at the Vietnam experience as a whole. If there are disabilities which appear at statistically significant levels for the entire Vietnam population, and if the science of the epidemiological study is sound, we should proceed to authorize disability compensation for such disabilities - much in the same manner as Secretary Derwinski has done with NHL.

Mr. Chairman, that concludes my testimony.

STATEMENT OF
DAVID W. GORMAN
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
FOR MEDICAL AFFAIRS
DISABLED AMERICAN VETERANS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
OF THE
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
May 2, 1990

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than 1.3 million members of the Disabled American Veterans and its Ladies' Auxiliary, may I say how very much we appreciate the opportunity to appear here today to comment on and present our views relating to H.R. 3004, the "Veterans Agent Orange Exposure and Vietnam Service and Benefits Act of 1989."

At the outset, Mr. Chairman, the DAV wishes to acknowledge and applaud you for the timely conduct of this hearing. Also, we wish to recognize the architect of this measure, Congressman Lane Evans, who has been a staunch supporter and outspoken advocate for Vietnam veterans.

The issue of Agent Orange and the countless resulting questions that have arisen is not new to Congress or this Subcommittee.

In fact the opposite is the case. Agent Orange is an old issue. An issue that continues to plague and confound the Department of Veterans Affairs (VA), the Congress, veterans' service organizations and, most importantly and directly Vietnam veterans and their families.

Mr. Chairman, over the last decade much has happened regarding Agent Orange; unfortunately much more has not happened.

We have witnessed the settlement of a massive class action suit pitting veterans against chemical companies and have seen the courts become involved and render decisions on other specific issues regarding Agent Orange.

There have been numerous scientific studies conducted by the government relating to the many components of the Agent Orange dilemma, which has cost the American taxpayer hundreds of millions of dollars.

Similarly, there has been a great deal of scientific research conducted by state governments, foreign governments, industry and the private medical and scientific sector.

Dozens of Congressional hearings have been conducted with Agent Orange being the focus of debate and inquiry. Testimony has been heard from all imaginable quarters, spread across the federal government, as well as the private sector; scientists; doctors; researchers; Miliary Personnel; veterans' service organizations; state governments; Vietnam veterans and survivors of Vietnam veterans.

Numerous pieces of legislation have been enacted into law mandating a broad range of actions to be taken including the conduct of scientific studies, the provision of health care services and the payment of disability benefits.

The media -- correctly or incorrectly -- has repeatedly reported and portrayed Vietnam veterans' difficulties regarding

this issue as being afflicted with a plethora of maladies caused by Agent Orange.

Mr. Chairman, while all of these events have occurred, the debate over Agent Orange continues. The debate continues because it is felt by many that enough has not yet been done to address the concerns of Vietnam veterans despite the passage of so much time.

Mr. Chairman, it has been nearly 30 years since the initial spraying of Agent Orange occurred in Vietnam. Since that time untold thousands of veterans and their families have been fearful, confused, frustrated, uninformed and extremely patient while waiting for answers to be found or for action to occur.

They still wait patiently. They wait for their government, their nation, to acknowledge various maladies as possibly being related or unrelated results of their military service and exposure; or they wait for signs that progress is being made in that direction. Further, they wait for some degree of assurance that the government is really doing something to address their concerns in an honest, forthright and meaningful fashion. Many feel this is not occurring.

Mr. Chairman, there appears to be a general consensus that the scientific and medical communities will not, in the foreseeable future, be in a firm position to provide answers to the many questions surrounding the issue of what, if any, adverse health effects result from exposure to Agent Orange.

Clearly, to expect veterans to wait until a large scale epidemiological study and/or long term research is completed is not a realistic response. We view the current process to be slow, tedious and totally inadequate. In our view, the time for affirmative, reasonable and meaningful action has long since arrived.

In our opinion, Mr. Chairman, H.R. 3004 represents a sound and meaningful mechanism to respond to the concerns of Vietnam veterans.

H.R. 3004

Section 3, of H.R. 3004 -- which has our support -- proposes to amend Section 312, Title 38, USC, to permit presumptive service-connection to be granted for chloracne, or another acneform disease consistent with chloracne if manifested within one year after the last date on which the veteran performed Vietnam service.

Section 4 proposes further amending of Section 312 extending on a presumptive basis, service-connection for;

* non-Hodgkins Lymphoma;

* soft-tissue sarcoma; and

* Melanoma and basal cell carcinoma.

Mr. Chairman, as you are well aware, the Centers for Disease Control released their study, "The Association of Selected Cancers with Service in the U.S. Military in Vietnam" on March 29, 1990.

That study reported a 50 percent increased risk of non-Hodgkins Lymphoma occurring in veterans who served in Vietnam compared with veterans who served elsewhere.

The same day, Secretary of Veterans Affairs Edward J. Derwinski, announced his decision that Vietnam veterans stricken with non-Hodgkins Lymphoma, as well as widows and children of veterans who died from non-Hodgkins Lymphoma, would be entitled to service-connected disability or death benefits.

Mr. Chairman, Secretary Derwinski's decision to grant service-connection for non-Hodgkins Lymphoma has satisfied a portion of Section 4 and, therefore, requires no additional discussion at this time.

We are, however, unable to now support the granting of service-connection, on a presumptive basis, for soft-tissue sarcoma or Melanoma and basal cell carcinoma. Our reasons being, we are not yet privy to sufficient documentation to support such a conclusion.

Mr. Chairman, Section 5 proposes to create a procedure and mechanism that would require VA -- via contract with the National Academy of Sciences -- to identify and determine, based on review of available scientific literature, specific diseases that can be reasonably associated with exposure to Agent Orange.

As we have previously indicated numerous scientific studies have been completed and many more no doubt will be. The sum of research thus far has not produced a consensual agreement concerning exposure and later developing disability as the studies have been tagged as "contradictory and inclusive."

At this juncture, a review by an entity not associated with and completely independent of the VA, which would be charged with the compilation and analysis of the results from all relevant scientific studies available, would be most welcome.

Such review would determine what, if any, disease(s) has an association with exposure to Agent Orange. Based on such a determination the VA would then be required to conclude, via the public rulemaking process, for what disease(s) service-connection may be granted.

The DAV is generally supportive of the intent and concept of Section 5.

Mr. Chairman, Section 6 of the bill would require the Secretary to compile and analyze, on a continuing basis, all clinical data obtained by the VA in conjunction with examinations and treatment furnished to veterans, after November 3, 1981, who received medical care from the VA based on their service in Vietnam and claimed exposure to Agent Orange.

Additionally, the Secretary would be required to submit to the Veterans Affairs' Committees a report containing:

1. the clinical information compiled;

2. the Secretary's analysis of such information;

3. a discussion of the disabilities identified or treated by the VA in the case of veterans receiving such treatment;

4. the Secretary's explanation for the incidence of such disabilities;

5. other explanations for ~~the incidence~~ of such disabilities as considered reasonable by the Secretary; and

6. the evaluation of the report submitted by the National Institutes of Health.

Mr. Chairman, we agree with the intent of Section 6. It is our belief that an exercise of compiling and analyzing the examination and treatment results of certain veterans may indeed prove beneficial and assist in the search for solutions to the Agent Orange issue.

Section 7, proposes, for the purpose of facilitating future scientific research on the effects of veterans exposed to dioxin, to establish and maintain a tissue archiving system for the collection and storage of blood and tissues of Vietnam veterans.

Mr. Chairman, the DAV recommended such an approach be implemented in testimony before the Senate Veterans Affairs Committee on May 12, 1988. We feel the need for such a system remains and we are pleased to support such a proposal.

Similarly, Mr. Chairman, in that same testimony we advocated the establishment of what we then referred to as "pilot research studies." The concept behind that recommendation parallels the intent of Section 8, and we are, therefore, pleased to support such a proposal.

Section 9 proposes to require VA to furnish, on an annual basis, to veterans listed in the Agent Orange Registry, updated, current information about the possible health risks of exposure to Agent Orange and about the services available to veterans.

Mr. Chairman, in view of the complex nature of this issue and veterans concern about adverse health effects, we feel it vital that the VA be charged with the responsibility of providing meaningful, easily understood information to all concerned individuals on a continuing basis. We are, therefore, fully supportive of Section 9.

Section 10, which we have no objection to, would require the Secretary of Health and Human Services to submit a report to the Veterans Affairs' Committees regarding research being conducted relating to treatments for physiological absorption of dioxin and other toxin agents.

Section 11, would amend Section 610, Title 38, USC, extending from December 31, 1990 to December 31, 2000, the authority to provide, as an entitlement, health care services to Vietnam veterans who may have been exposed to Agent Orange.

Mr. Chairman, the DAV is supportive of this proposal. We would recommend, however, that the issue of entitlement to health care services be examined in the broader context of outpatient care.

Currently the VA is mandated to provide hospital care to veterans alleging exposure to dioxin. No such mandate exists regarding the provision of outpatient care. We believe it should.

We would urge you, Mr. Chairman, during your deliberations on this measure to give serious consideration to extending entitlement to outpatient care to all Category A veterans, thereby assuring they, including Vietnam veterans exposed to Agent Orange, receive the health care services so urgently needed.

Mr. Chairman, we have no objection to Section 12 which proposes to make certain technical amendments relating to the Air Force's Ranch Hand Study.

Mr. Chairman, this concludes my testimony and I will be pleased to respond to any questions you may have.

STATEMENT OF

LARRY W. RIVERS, EXECUTIVE DIRECTOR
WASHINGTON OFFICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

AGENT ORANGE
(H. R. 3004)

WASHINGTON, D. C. MAY 2, 1990

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

I am especially pleased to be here today representing the 2.2 million members of the Veterans of Foreign Wars of the United States and appreciate this opportunity to comment on H. R. 3004, legislation that would provide the presumption of service-connection between certain diseases experienced by veterans exposed to toxic herbicide agents while serving in Vietnam. This legislation would also provide for permanent benefits for these veterans who are suffering from certain diseases. Finally, this legislative initiative would improve the reporting requirements relating to the "Ranch Hand Study," as well as providing for generally improved services to Agent Orange veterans by VA.

I will begin by pointing out that the VFW has once again established as a priority goal the resolution of the Agent Orange issue. More than ten years have now passed since public attention first focused on the health effects and dangers caused by exposure to toxins present in certain defoliants used extensively during the Vietnam war. Over these years my fellow Vietnam veterans and I have patiently waited for answers to our questions. Instead of answers, we have been given conflicting reports and seemingly endless delay. It seems to us that in the herbicide exposure issue much time and millions of dollars have been spent pursuing perfect understanding predicated upon scientific certainty. In this area, as in others in this complex and changing world, scientific certainty continues to elude us. However, we do know with absolute certainty that many Vietnam veterans suffer serious health problems--problems that can be and often are caused by exposure to toxins. Veterans suffering these serious problems are convinced that they have been robbed of their health as a result of dioxin exposure while serving in Vietnam. There are those who ask--where is the absolute proof--the scientific certainty? Perhaps at this point there is no absolute proof--no scientific certainty. But the search for truth must continue and while the research goes on the VFW cannot understand why we fail to show true compassion for seriously ill veterans awaiting answers that may be years in coming.

In a way similar to H. R. 3004, numerous pieces of legislation have been introduced addressing the Agent Orange issue and many of these bills contain provisions allowing for presumptive disabilities. The VFW advocates liberalizing the criteria needed for the favorable disposition of herbicide-related disability claims. We realize that whenever presumptive disabilities are allowed, the government must set aside the normal rules of evidentiary development in favor of a more compassionate method of establishing service-connected compensation. In our opinion this is the preferred method. It is a good common sense approach to a difficult problem. If there is substantial evidence against a veteran's claim, i.e., clear proof, showing that the claimant was not disabled as a result of military service, then he should not receive compensation. However, the burden of proof when adjudicating Agent Orange claims should be placed on the VA—not on the veteran. If the VA can prove beyond a reasonable doubt that the herbicide related claimant's disability is not a result of military service, then the VA should be allowed to act on that evidence and deny the claim. The veteran able to establish a prima facie case of disability due to herbicide exposure should be compensated in the absence of substantial evidence to the contrary.

It is time to take the accumulated results of ten years of study include a healthy dose of compassion and use the resulting mix as the basis for specific legislation. The VA can easily be given reasonable guidelines to use while adjudicating Agent Orange claims thereby preserving the integrity of the VA compensation system.

Given the foregoing, we believe it is clear why the VFW supports H. R. 3004. This bill cuts through the uncertainty and seemingly interminable delays by adding soft-tissue sarcoma as well as melanoma and basal cell carcinoma to those disabilities already acknowledged by VA as having their root in Vietnam service. Additionally, this bill would provide the means for adding additional disabilities to the list of diseases attributable to herbicide exposure once significant corelation is established between such exposure and a given disability. The VFW views this as being in keeping with our position that such a complex issue deserves a fair and compassionate solution.

In conclusion, I would mention at this time that the VFW applauds Secretary Derwinski's recent decision to allow retroactive VA benefits to veterans suffering from non-Hodgkin's lymphoma and in assisting widows and children of veterans who died as a result of this disease. His decision was a logical one in light of findings contained in the recent study by the "Selected Cancers Cooperative Study" group showing that Vietnam veterans suffered a 50 percent higher incidence of non-Hodgkin's lymphoma than do other United States males. This is a good start but much remains to be done.

The time to proceed in a strong and positive fashion on the herbicide exposure issue is long overdue. To those who say that the lack of "scientific certainty" argues against providing VA compensation for certain Agent Orange related disabilities, I can only say that this is not the first time that common sense understanding has preceeded in advance of the empirical method with respect to establishing the truth. It seems to me it took at least 20 years before the scientific community reached any form of consensus on the deleterious effects of what is now acknowledged to be the number one preventable cause of death in this nation, I am referring, of course, to tobacco. Now, for the most part, there is agreement between this nation's scientists and the man on the street that smoking will kill you. Well, in the view of the VFW the same holds true of the deadly toxins which were present in the millions of gallons of herbicides used in Vietnam. We believe that one day scientists will affirm what many veterans already know--herbicides are quite capable and quite likely to produce a range of serious disabilities and even death. Unfortunately, many veterans do not have the luxury of being able to wait for scientific affirmation--they, their families and dependents are in immediate need of help. The time to act is now.

Mr. Chairman, this concludes my statement. Once again, I wish to express to you and the other members of this Subcommittee the thanks of the Veterans of the Foreign Wars for holding today's important hearing and including our views in the deliberations. Thank you. A germane resolution is appended to this statement and I will be happy to respond to any questions you may have.

STATEMENT OF THOMAS BURCH

BEFORE THE HOUSE COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

Agent Orange Hearings
May 2, 1990

We wish to thank the subcommittee for affording us the opportunity to present testimony in support of H.R. 3004 at this hearing on one of the two greatest issues of concern to the Vietnam veterans community. The National Vietnam Veterans Coalition is a federation of approximately 50 Vietnam veterans organizations and veterans issue groups. Originally formed in 1983, the Coalition is unified around eight primary objectives for Vietnam veterans. One of these goals has been "Maximum Relief for Agent Orange Victims."

Initially, we would note that this issue has been the subject of enormous frustration to Vietnam veterans and their families. Although it is outside the jurisdiction of the Congress to rectify, probably nothing has contributed more to that frustration than the Agent Orange class action lawsuit. Begun with high expectations in 1979, it has resulted in only minuscule payments to veterans who are totally disabled or to their survivors. At the same time, these have been enormous payments from the settlement fund to a horde of attorneys, consultants and the like.

Second, Public Law 98-542 (which served as the basis for the Coalition's first concerted grass roots pressure efforts), on paper, might have served as the basis for comprehensive relief. Instead, it was effectively sabotaged by the VA bureaucracy. As one example, after Congress provided that veterans afflicted with soft tissue sarcoma and porphyra cutanea tarda would be entitled to interim benefits if these diseases manifested themselves within one year of departure from Vietnam; it then left the decision on the appropriate time frame for permanent benefit status to VA. The VA decided to reduce the time frame to only three months.

Lastly, the issue has been subjected to inordinate scientific analysis, pursuant to which the government scientists have either declared themselves to be unable to reach any conclusions or else have produced negative conclusions (despite the fact that other reputable studies have reached opposite conclusions). Invariably, the allegedly inconclusive findings are trumpeted in the political debate as solid proof that there is neither cause and effect nor significant statistical association between exposure and adverse health effects. All of this scientific work has been at enormous expense and has consumed endless time.

We submit that Congress must take meaningful action to end the frustration and to heal the bitterness. Before embarking on the substance of our testimony, we will delimit those areas into

which we will not venture. Since we believe that we can safely rely upon other witnesses to make these points, we will assume that the subcommittee is already familiar with the controversy over the CDC Serum Study protocol. We assume that it is likewise familiar with Sen. Thomas Daschle's landmark speech, which was entered in the Congressional Record last November 21. We also assume that others will provide a lengthy list of scientific studies that rebut CDC, Ranch Hand and other talismans of the opponents of Agent Orange legislation. We will seek to provide supplemental perspectives.

The first key point is: Vietnam veterans have long since reached their collective conclusion on this issue, on the basis of the anecdotal evidence. The negative and inconclusive studies fly in the face of all perceived reality: there is not one activist in the "field" who is not aware of any number of Vietnam veterans who are suffering from some form of cancer or whose children are birth defected. Craig Close, the executive director of one of our member groups, the Rhode-Island based Vietnam Era Veterans Association, which is recognized by VA as a service organization for claims representation, has given one example: "I presently have 70 Agent Orange clients; out of that 70, eighteen have had cancer, which equals just a shade over 25% of these clients. Three of these clients did of cancer between August of 1988 and the first week of January 1989. . . . (T)oo many Vietnam veterans are dying from strange illnesses, cancer, etc. I also believe that 25% of 70 clients is too high a percentage to go unnoticed of cancer and that is only just the ones I know about. Here in the State of Rhode Island there are approximately 1,000,000 people and when you read the death notices each day in the Providence Journal Bulletin, our only local newspaper, and at least a week average of a Vietnam veteran having died, I think that this is kind of strange, that number of veterans at an average age of 42 years is very significant."

We do not understand why it should be so difficult for the government scientific and bureaucratic establishment to accept the concept that Vietnam veterans were, in fact, injured by exposure to Agent Orange. The case of Times Beach, where an entire community was evacuated and compensated, is well-known. What is probably not so well known is that the Federal government, in seeking response costs under the pertinent environmental enforcement laws from the parties responsible for the contamination, which arose out of the spraying of waste oil, has offered an interesting theory for the source of the pollution. Its legal pleadings allege that the contamination can be traced back to dioxin residue, from Agent Orange manufactured for use in Vietnam, by a company called Hoffman-Taff, in the 1960s. According to the government's allegations, this residue remained in the "black tank," which Hoffman-Taff sold in 1969 to

the current owners, whose waste oil then became contaminated[1] with chemicals from the very batches which were destined for use in Vietnam. Times Beach residents have received very different treatment than have Vietnam veterans. This state of affairs would seem to corroborate the wag who recently told us: Dioxin harms civilians, it doesn't harm Vietnam veterans."

Turning next to the scientific establishment, much of its recalcitrance is built around the CDC studies. One thing we would like to bring to your attention is that researchers for one of our member groups, the Oklahoma Agent Orange Foundation, have compared the high-profile original summaries and JAMA publications of CDC studies designed for media release with the multi-volume monographs which are the repository of CDC's full scientific work product. We attach these comparisons and other relevant data. Suffice it to say, there are considerable discrepancies between the respective releases. Unfortunately, it is the very downbeat media releases which receive the attention and mold public opinion on the issue, instead of the more favorable conclusions from the comprehensive monographs.

We are also puzzled by the need for such elaborate scientific studies. Study groups could be more easily recruited from the claimants in the class action lawsuit or the VA Agent Orange Registry. Or, for example, Fred Wilcox, in his "Waiting for an Army to Die," recounts the experience of a single platoon, the survivors of which discovered in the early 1980s that, with regard to the six members who could be located through private effort, five either had serious health disabilities, or else their children had deformities. Would it not have been simpler to have surveyed this platoon against a control group?

Let us be objective for a moment. One can contend that the CDC studies and Ranch Hand are credible studies, backed by reputable scientists. By the same token, there are a large number of studies which reach opposite conclusions which are also credible and backed by reputable scientists. Under this analysis, the studies are in equipoise. We submit in that event that it is the responsibility of the House Committee on Veterans Affairs to give the veteran the benefit of the doubt. The decision also should be in line with the favorable scientific studies and the anecdotal evidence.

Next, the old-line Veterans Administration is generally perceived as an adversary. While Secretary Derwinski has been justifiably praised for his willingness not to appeal the Nehmer decision and to direct a rewrite of the onerous former regulations implementing P.L. 98-542, which mandated a showing of

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[1]As reported in Environmental Policy Alert, Nov. 16, 1988, pp. 12-13.

"cause and effect" between exposure and disease, his recent action in granting permanent presumptive benefits for non-Hodgkins lymphoma is proof that the reform of the regulations is not working. The new regulation, which purportedly utilizes "significant statistical association" as its test, continued the decisionmaking power of the scientific advisory panel formally known as the Veterans Advisory Committee on Environmental Hazards (hereinafter termed the "panel").

When public comment was sought on the new regulation, as proposed, many of the commenters scored the panel for widely perceived bias against finding links between exposure and adverse health effects and questioned whether any regulation could work unless there were significant personnel changes; almost every veterans organization and state Agent Orange commission which testified in the hearings before the DVA Advisory Committee on Health-Related Effects of Herbicides, held last October 31-November 1 reiterated this concern. The response of the VA, when it issued the final regulation, was that this concern was irrelevant!

Sure enough, the panel has held one meeting thus far and reviewed partial scientific literature on only one disease, back in November, and then pronounced itself unable to find a "significant statistical association" between exposure and NHL. Moreover, although CDC had publicized preliminary findings of statistical excess for NHL in 1988 during the then ongoing Selected Cancers Study, the panel announced that it would not consider any findings to this effect in the final study, because it was not designed as an Agent Orange study. It is, of course, the since released conclusions of this study which form the basis for the Secretary's benefits decision.

Fortunately, the new regulation did make provision for the Secretary to override the conclusions of the panel, and four months later, he did exercise that option. It is to Secretary Derwinski personally then, and not to any institutional change at VA, that we owe this new direction. The day may come that a less caring secretary may be in the saddle, and the status ante quo is restored.

We confess also that we are somewhat confused by overall policy priorities. Despite the strictures of Gramm-Rudman, the Administration has happily found it possible to increase the VA budget for medical care by $1 billion. But if there is $1 billion in found money, why is it not possible to allocate $70 million to Agent Orange benefits? The sufferings of herbicide victims surely rate at least a 7% priority in the overall expansion of VA programs. The General Accounting Office has recently suggested that 19% of all current benefits recipients receive compensation based on disabilities that were probably neither caused nor aggravated by military service and another 9% are compensated for injury-related disabilities that did not arise out of military service. Sen. Alan Simpson has pointed out

that this analysis doesn't count the 13% of recipients the relationship of whose disabilities could probably not be determined.[2]

The GAO analysis have stirred considerable controversy within the veterans community at large. For our purposes, it needs only to pointed out that when the ordering of budgetary priorities and other policy considerations are addressed, those whose disabilities are combat-related merit a higher priority than those whose claims on VA arise otherwise. National budgetary impasses being what they are, it may regrettably not be possible to afford every aggrieved veteran his (or her) due; but, if that sad fact should be the case, the Agent Orange victim should not be the hindmost the devil takes - that veteran and his family have a more meritorious case than many other claimants.

H.R. 3004 is the only attainable method for breaking the dead grip of the scientific and bureaucratic establishment. First, it would afford permanent disability benefits for several diseases which have garnered significant scientific support as dioxin-related. Legislative fiat would shortcut the cumbersome regulatory route.

Second, despite the anecdotal evidence, we will never be able to shake the scientific route. For the sake of being objective, it is distressing to see the degree of polarization in the scientific community, as Dr. Vernon Houk at CDC has rallied government scientists as supporters to attack the American Legion study, and Dr. Jeanne Stellman has apparently summoned private sector allies to the counterattack. It would do well then to entrust the responsibilities for scientific determinations to a more neutral agency. The proposal in H.R. 3004 to relocate them to the National Academy of Sciences is probably the best available solution on this score.

The tissue archiving provisions of the bill will enable much of the testing of individual samples to be deferred until less expensive testing methods, or perhaps even new, inexpensive tests, come into existence. We also welcome the bill's proposal to extend existing VA health care eligibility for Agent Orange victims; at the same time, we construe Section 10 of the bill as allowing for consideration, for perhaps the first time, of non-invasive, physiological dioxin maintenance and removal programs. Lastly, the provisions for greater VA outreach will hopefully accelerate the innovative work of Secretary Derwinski, as well as assure against cutbacks in existing publications.

In closing, we would note one further odd fact: many 40-year old veterans are presently drawing full disability

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[2]Washington Post, April 8, 1990, p. B5.

pensions from Social Security. Once upon a time, these men were above average health for their age group. They were sent to Vietnam. When they returned, their health deteriorated, to the point that they cannot work gainfully. Their protector should not be the Social Security Administration, it should be the Department of Veterans Affairs.

We therefore ask you to pass H.R. 3004, as the best attainable method for reforming the status of Agent Orange. Thank you.

008JTB6.3D/ldw

VIETNAM VETERANS DESERVE COMPENSATION, NOT MORE STUDIES

COMPARISON OF THE RANCH HAND II STUDIES, THE CDC VIETNAM EXPERIENCE STUDY, AND THE AMERICAN LEGION/COLUMBIA UNIVERSITY STUDY

The written testimony of

Michael N. Sovick, Vice Chairman

THE OKLAHOMA AGENT ORANGE FOUNDATION

Member of the National
Vietnam Veterans Coalition

submitted to:

The Honorable Douglas Applegate, Chairman

Subcommittee on Compensation,
Pensions, and Insurance

UNITED STATES HOUSE
COMMITTEE ON VETERANS' AFFAIRS

334 Cannon House Office Building

9:30 A.M.

May 2, 1990

MEMBER OF THE NATIONAL VIETNAM VETERANS COALITION

THE OKLAHOMA AGENT ORANGE FOUNDATION
P.O. Box 849
Lexington, OK 73051
May 2, 1990

COMPARISON OF THE RANCH HAND II STUDIES, THE CDC VIETNAM EXPERIENCE STUDY, AND THE AMERICAN LEGION/COLUMBIA UNIVERSITY STUDY

The information contained on this page will summarize and compare the results from the Ranch Hand II studies, the CDC (Centers for Disease Control) Vietnam Experience Study, and the American Legion/Columbia University Study. These studies are the three largest, most comprehensive done on the postservice health of Vietnam Veterans. Any significant result from each category in these studies will be listed; so a comparison can be made with the 1979 GAO (General Accounting Office) listing of instructions given to VA health care facilities. This GAO report (CED-79-22) dated April 6, 1979, "Health Effects of Exposure to Herbicide Orange in South Vietnam Should Be Resolved", listed some of the instructions given, in 1978, to the VA. This VA directive was: "to pay particular attention" to a number of organ systems when examining Vietnam Veterans for health effects due to exposure to Agent Orange. (The organ systems are listed below.)

COMPARISON BETWEEN RANCH HAND (RH), CDC VIETNAM EXPERIENCE STUDY (VES), AND AMERICAN LEGION/COLUMBIA UNIVERSITY (AL/CU) RESULTS AND THE INSTRUCTIONS LISTED IN THE 1979 GAO REPORT

CATEGORY	RH	VES	AL/CU	INSTRUCTIONS TO THE VA
GEN. HEALTH	SS	SS	SS	Repeated infections
CANCER	SS	SS	SS	Neoplasia
NEUROLOGY	SS	SS	SS	Nervous system
PSYCHOLOGY	SS	SS	SS	
DIGESTIVE	SS*	SS	SS	Liver
DERMATOLOGY	SS	SS	SS	Chloracne (skin)
CARDIOLOGY	SS	SS	SS	Adrenals
HEMATOLOGY	SS	SS	N/A	Blood-forming organs
RENAL	SS	SS	SS	Kidneys
ENDOCRINE	SS	SS	N/A	Thyroid
IMMUNOLOGY	SS	SS	N/A	Immune system
PULMONARY	SS	SS	SS	Lungs
REPRODUCTIVE	SS	SS	SS	Frequent abortions, congenital deformities, sterility, and etc.

* = Excess mortality in Ranch Hands

The following pages of this comparison between the three studies (RH, VES, & AL/CU) will document in more detail the human health consequences of service in Vietnam. All the statistically significant abnormalities listed occurred in the Vietnam Veterans studied, not in the control groups. SS = statistically significant, BS = borderline significant, X = excess, XRR = excess risk ratio, and N/A = not applicable. References are provided at the end of the comparison.

A comparison of these three studies is possible because of the following scientific fact: "The total dose of the chemical (TCDD) required to produce disease is less if the dose is spread over time, compared to a single dose." (E.E. McConnell, 1984, U.S. National Institute for Environmental Health Sciences) In other words, the human body may provide a protective effect during sub-lethal acute doses. However, those with chronic low dose environmental exposures (ground troops) may develop the same diseases as those with occupational exposure (Ranch Handers). This could also mean that those with the highest body burdens may not necessarily have the most disease. For example, the USAF claims the Ranch Hand ground crew has the highest mean serum dioxin levels; however, the enlisted flyer group, with a lower body burden of dioxin, has the statistically significant excess of systemic cancers.

CATEGORIES	RH	VES	AL/CU
GENERAL HEALTH			
Poorer health/more symptoms	SS T9.1	SS T4.4	SS T7
CANCER			N/A
Skin - verified			
basal cell carcinoma	SS T3		
sun exposure	SS T3		
any	SS T3		
Oral cavity	SS A20		
Systemic cancers - verified (enlisted flyers)	SS P9		
Testicular (p=<.06)	BS T2		
Genitourinary	X T10.5		
Lung, bronchus	X T10.5		
Lymphoma (NHL)	One case	SS T30	(p43
Leukemia		XRR T30	1987
Brain		XRR T30	VES)
Any neoplasms	SS T3		
Benign tumors			
Cysts, epidermal inclusion/sebaceous		SS TB.1	SS T3
Masses			
neck		SS T12.2	
abdomen		SS TC.1	
mouth		SS TC.1	
NEUROLOGY			
Nervous system disease	SS t6		SS T3
Peripheral neuropathy		BS T14.1	
CNS summary index	SS T4		
Nerve conduction abnormality			
peroneal motor nerve	BS T12.11	SS T7.11	
distal ulnar	SS T12.11		
median sensory, distal		SS T7.10	
Babinki reflex	SS T12.5		
Pin prick (Rt. leg distal dorsal)		SS TG.1	
Hearing loss		SS T7.11	
PSYCHOLOGY			
PTSD		SS TA.1	SS F2
MMPI (adjusted, except for 5)			
1 hypochondria	SS T13.22	SS T5	
2 depression	SS T13.22	SS T5	
3 hysteria	SS T13.22	SS T5	
4 psychopathic deviate		SS T8.9	
5 masculinity/femininity	SS T13.22		
6 paranoia		SS T8.4	
7 psychasthenia		SS T5	
8 schizophrenia	SS T13.22	SS T5	
9 mania/hypomania		SS T8.9	
0 social introversion	BS P14	SS T8.7	
Total CMI (unadjusted)	SS T6		
A-H area subscore	SS T6		
Isolation	SS A18.2		
DIGESTIVE			
Excess MORTALITY	SS *		
Cancers (p=<.09)		BS T12.1	
Ulcers		BS TA.1	SS T2
Hepatitis		SS T6.10	SS T4
Antibody to HgsAg		SS TE.31	
Occult blood		SS TE.31	
Alkaline phosphate, higher mean	SS T7	BS T6.12	
PCT - porphyria cutanea tarda		One case	
Coproporphyrin (adjusted)	BS T7		
Other hepatic conditions, verified	SS A18.2		
GGT	SS p40	SS T7	
Gastrointestinal X-ray abnormality		SS T10.5	

CATEGORIES	RH	VES	AL/CU
DERMATOLOGY			
Chloracne		SS TA.1	
Acne, Grade IV		XRR T5.4	
Adult acne	SS t9		SS T3
Skin rash with blisters			SS T2
Change in skin color/darkening		SS TA.2	SS T2
Milia (usually associated with PCT)		SS TB.1	
Skin patches/bruises/sensitivity (PCT symptoms)	SS A18.2		
Psoriasis		SS T5.1	
CARDIOLOGY			
Heart attacks		SS T9.1	
Heart disease, verified	SS T9		SS T2
High blood pressure			SS T2
Any ventricular hypertrophy		SS T9.8	
Abnormal peripheral pulses	SS P19.7		
HEMATOLOGY - abnormalities			N/A
Sedimentation rate	SS T1		
Lymphocytes (relative) <16%		SS TD.2	
White blood cells	SS t11		
Red blood cells <4.4m/mm3	SS P28	SS TD.2	
MCH - mean corpuscular hemoglobin	SS A18.3		
MCHC - mean corpuscular hemoglobin concentration	SS T16.3.4	SS TD.1	
Platelets	SS t11		
RENAL			
Kidney disease	SS T16.5.4		
Genitourinary problems			SS T4
Frequent urination		SS TA.2	
Frequent night urination		SS TA.2	
Urinary occult blood (black cohort)	SS p60		
ENDOCRINOLOGY - abnormalities			N/A
Overactive thyroid		SS T11.2	
TSH - thyroid stimulating hormone	SS T14	SS T7	
T3 uptake decrease	SS T16.6.10		
FTI - free thyroxine index	SS T16.6.10		
Testosterone	SS T16.6.10		
Postprandial glucose	BS T14		
Fasting glucose		SS T7	
IMMUNOLOGY - abnormalities			N/A
T4 cells above reference range		SS T8.8	
Unstimulated proliferation rate	SS T16.2.9		
B cells	BS T16.2.1		
T11 cells	BS T16.2.1		
Total T cell count (ground crew)	SS P35		
T8 cells (ground crew)	SS P35		
Pokeweed counts (enlisted flyers)	SS P35		
Composite skin test	SS t14		
NK cells (black cohort)	SS p70		
Immunoglobulin IgG (officers)	SS p70		
Other occupational group abnormalities	SS t14		
PULMONARY			
Neoplasm or neoplasm-like		BS T10.5	
air-filled blisters, lung		SS P163	
Rales	SS P43		
Chronic bronchitis		SS T10.1	
Cold/sore throats/persistent cough			SS T7
Abnormal function	SS T17.9		

CATEGORIES	RH	VES	AL/CU
REPRODUCTIVE			
Miscarriage	SS T11.19	SS T30p35	SS T10
Abnormal live birth outcomes			
birth defects	SS T11.19	SS T32p37	
physical handicaps	SS T11.19		
learning disabilities	SS T11.19		
neonatal death	SS T11.19	SS T25p73	
Induced abortions (officers)	BS T11.19		
Cerebrospinal malformations		SS T38p82	
Difficulty having children/ fertility difficulties		SS TA.5	ES T9
Infertility/diagnosed		SS TA.5	
Sperm abnormalities			
concentration		SS T13.8	
shape		SS T13.9	
concentration, shape, & motility		SS T13.9	
OTHER DISEASES AND CONDITIONS			
Glaucoma		SS T7.8	
Conjunctive disease		SS T7.8	
Cornea disorders		SS T7.5	
Increased sensitivity to light, eyes			SS T2
Meningitis		SS T7.5	
Malaria		SS T8.2	

DESPITE ALL THE STATISTICALLY SIGNIFICANT DIFFERENCES FOUND WITHIN THE 1989 CDC MONOGRAPH ABOUT THE VIETNAM EXPERIENCE STUDY, THE DIRECTOR OF THE CDC, James O. Mason, M.D., Dr. P.H., submitted testimony before the Veterans' Affairs Committees which stated: "(p)hysical and laboratory examination shows few current differences between the two groups despite the many differences elicited by telephone interview". Also, in the abstract for an article in the Journal of the American Medical Association (JAMA) about the CDC Vietnam Experience Study, published on May 13, 1988 and written by the Centers for Disease Control, the following is found: "results of medical examinations showed few current objective differences in physical health between the two groups".

HOWEVER, IN THIS SAME JAMA ARTICLE THE FOLLOWING IS ALSO FOUND: "(o)dds ratios based on examination results were similar to those based on results of the telephone interview". (JAMA 259:2709, 1989)

REFERENCES

RH All notations listed that have decimal points can be found in tables (T), or in the appendix (A), from the following:

Lathrop et al., "An Epidemiologic Investigation of Health Effects in Air Force Personnel following Exposure to Herbicides, Baseline Morbidity Study Results", USAF School of Aerospace Medicine, Brooks Air Force Base, 1984.

RH Other notations refer to tables (T) or pages (P) from:

Lathrop et al., "An Epidemiologic Investigation of Health Effects in Air Force Personnel following Exposure to Herbicides, First Followup Examination Results", USAF School of Aerospace Medicine, Brooks Air Force Base, 1987.

RH Still other notations refer to tables (t) or pages (p) from:

Thomas et al., "An Epidemiologic Investigation of Health Effects in Air Force Personnel following Exposure to Herbicides, 1987 Followup Examination Results", USAF School of Aerospace Medicine, Brooks Air Force Base, February 1990.

REFERENCES CONTINUED

RH The * denoting SS excess mortality refers to data from:

Wolfe et al., Air Force Health Study (Project Ranch Hand II), "An Epidemiologic Investigation of Health Effects in Air Force Personnel following Exposure to Herbicides, First Followup Examination Results", USAF School of Aerospace Medicine, Brooks Air Force Base, April 17, 1989.

VES All notations listed that have decimal points can be found in tables (T), or in the appendix (A-G), from the following:

Centers for Disease Control, CDC Vietnam Experience Study, Health Status of Vietnam Veterans, CDC Monograph, 1989:

Volume III - All categories except Psychological and Reproductive

Volume IV - Reproductive - tables (T) and pages (p) are noted.

Volume V - Psychological

VES All other notations refer to tables (T) or pages (P) from:

Centers for Disease Control, The CDC Vietnam Experience Study, Health Status of Vietnam Veterans

I. Psychosocial Characteristics, JAMA 259:2701-2707, 1989.

II. Physical Health, JAMA 259:2708-2714, 1989.

Centers for Disease Control, Postservice Mortality Among Vietnam Vieterans, CDC Monograph, 1987.

AL All notations except for PTSD, refer to tables or pages from the following:

Stellman et al., Health and reproductive outcomes among American Legionnaires in relation to combat and herbicide exposure in Vietnam, Environ. Res. 47:150-174, 1988.

AL The PTSD notation: refers to Figure 2 on page 188 in:

Snow et al., Post-traumatic stress disorder among American Legionnaires in relation to combat experience in Vietnam: Associated and contributing factors, Environ. Res. 47:175-192, 1988.

MEMBER OF THE NATIONAL ASSOCIATION OF STATE AGENT ORANGE PROGRAMS

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DIFFERENCES BETWEEN THE "J.A.M.A." (Journal of the American Medical Association, JAMA 259:2709-2714) VERSION AND A CDC (Centers for Disease Control) MONOGRAPH VERSION OF THE CDC VIETNAM EXPERIENCE STUDY (VES), POSTSERVICE MORTALITY, 1987.

	CDC JAMA VERSION		CDC MONOGRAPH VERSION
1.	Medical data used based on death certificates. [Less accurate]	1.	Medical data used based on review of medical records. [More accurate]
2.	"There was no particular type of neoplasm in excess in the Vietnam cohort."	2.	"Examination of specific types of cancer shows more deaths among Vietnam Veterans from brain cancers, leukemia, and non-Hodgkin's lymphomas, all in very small numbers."
3.	Risk ratio for neoplasms 0.82.	3.	Risk ratio for neoplasms 1.21. [Excess]
4.	Found excess post-service mortality similar to other men returning from combat areas after WWII and Korea.	4.	Did not explain that Vietnam veterans actually are experiencing similar post-service mortality as ex-POW's from WWII and Korea.
5.	Describe statistically significant excess deaths due to external causes.	5.	Statistical significance for external causes lost.
6.	Report a 0.95 risk ratio for mental disease.	6.	Report a 2.85 risk ratio for mental disease ($p<.06$). [Excess]
7.	No mention of autoimmune diseases.	7.	Autoimmune diseases, including lupus, were found.
8.	Released to the media for public consumption and published in JAMA.	8.	NO MEDIA RELEASE OF THE MORE ACCURATE DATA IN THE CDC MONGRAPH.

THE OKLAHOMA AGENT ORANGE FOUNDATION
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DIFFERENCES BETWEEN THE "J.A.M.A." (Journal of the American Medical Association) AND THE CDC (Centers for Disease Control) VERSIONS OF THE CDC VIETNAM EXPERIENCE STUDY (VES), HEALTH STATUS OF VIETNAM VETERANS, II. PHYSICAL HEALTH - 1988.

CDC TESTIMONY BEFORE THE SENATE or JAMA EMBARGOED NEWS RELEASE and subsequent news reports based on these 2 items.	WHAT THE JAMA ARTICLE ACTUALLY SHOWS OR REPORTS (* - the Ranch Hand Studies found similar results)
1. "Physical and laboratory examinations shows few current differences between the two groups despite the many differences elicited by telephone interview." (CDC, James O. Mason, Senate testimony - 5/12/88)	1. "Odds ratios based on examination results were similar to those based on results of the telephone interview."
	VIETNAM VETERANS WHO WERE EXAMINED MEDICALLY BY THE CDC HAD STATISTICALLY SIGNIFICANT EXCESSES OF:
	a. * Health status "fair/poor"
	b. Somatic symptoms
"On examination, we found no differences between cohorts in these health effects, such as skin conditions,... ...hepatic dysfunction,...". (JAMA news release - 5/12/88)	c. * Hypertension
	d. CHLORACNE and other skin conditions
	e. * Other liver conditions
	f. Fertility difficulties
"No difference in fertility between the two groups was found." (JAMA news release)	g. Decreased concentration and proportion of normal sperm cells.
"...the prevalence of reported medical problems among those examined was similar to the prevalence in the total telephone interview group." (JAMA article - 5/13/88)	h. High-freq. hearing loss
	i. * Increased fasting glucose
	j. * Higher mean thyroid stimulating hormone
	k. Stool occult blood
	l. Evidence of past hepatitis B infection
2. "Vietnam Veterans Health Held No Worse Than Others"- "The problems are termed psychological, not physical." (NY Times, 5/13/88)	2. THE MANY DOCUMENTED PHYSICAL HEALTH PROBLEMS OF VIET VETS WERE NOT MENTIONED IN: JAMA, SENATE TESTIMONY OR THE MEDIA.

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SOME DIFFERENCES BETWEEN THE "J.A.M.A." ARTICLE "HEALTH STATUS OF VIETNAM VETERANS, II. PHYSICAL HEALTH" (JAMA 259:2708-2714, 1988) AND THE 1989 CDC VES MONOGRAPH "HEALTH STATUS OF VIETNAM VETERANS, VOL. III MEDICAL EXAMINATION". [Vietnam Veterans>non-Viet Vets]

	JAMA VERSION		CDC MONOGRAPH VERSION
1.	"Among examination participants, dermatologic findings were similar in the two cohorts." (p. 2709)	1.	But, the 1989 CDC VES monograph reports that:
		a.	The acne, grade IV, odds ratio (OR) is a non-significant (NS) 2.0.
		b.	Milia, a skin rash linked w/ PCT, is statistically significantly excess (SSX).
		c.	Epidermal cysts are SSX.
2.	"The largest relative difference was for left ventricular hypertrophy, although the 95% CI included 1.0." (p. 2709)	2.	But, in the CDC VES, Table 9.9 shows that "any ventricular hypertrophy" is SSX, OR=1.6, CI - 1.1-3.1.
3.	"The proportion of veterans with abnormal findings on chest films was comparable in the two groups."(p. 2709)	3.	But, in the CDC VES, Table 10.6 shows that "neoplasm or neoplasm-like" X-ray findings have a 2.3 OR. Within this category is a SSX of bullae, air filled blisters on the surface of the lungs of Vietnam Vets.
4.	"The largest relative difference between groups was for those veterans who had primarily subjective criteria (symptoms) of neuropaphy (OR=1.5), but the lower bound of the 95% CI included 1.0." (p.2710)	4.	But, in the CDC VES, Table 7.11 shows two values are out of reference range: the peroneal motor nerve has a SSX OR of 1.7 for conduction velocity and a SSX OR=1.5 for amplitude.
5.	"The proportions in each cohort with values above or below the reference range for *ALL test measurements were similar; all ORs were less than 1.5 and their 95% CIs included 1.0." (Immunologic findings, p. 2710) [* - emphasis added]	5.	But, in the CDC VES, Table 8.8 shows that the crude results for the T4 T-cell counts above the reference range are SSX, OR - 1.5 CI 1.1-2.0; after adjustment this result became NS. In addition, Table D.2 shows abnormally low counts for: lymphocytes, OR - 1.6, and red blood cells, OR - 1.8; both of which are SSX.

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Veterans of the Vietnam War, Inc.

AGENT ORANGE PROGRAM DIRECTOR, MICHAEL LASHER
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Testimony before the Committee on Compensation, Pension, and Insurance

May 2, 1990

Mr. Chairman and Members of the Committee, Good Morning! I am Michael Lasher, Agent Orange Program Director, of the Veterans of the Vietnam War, Inc.

Surely, it must strike a chord to all of you that after 10 years of studies and debate the conclusions remain the same---- the government sponsored studies cannot ascertain exposure levels of Vietnam veterans nor can they find any statistically significant evidence linking exposure to herbicides and associated illnesses. (The one exception being the Selected Cancers Study released by CDC which concluded a 50% increase of developing non-hodgkin's among Vietnam vets reported on 3-29-90.) Yet, non-government sponsored studies and studies world-wide consistently observe illnesses associated with herbicide exposure characterized by their non-uniformity, both in development and effects on individual organs. Deterioration is always sudden, followed by less gradual improvement. In addition, studies have been presented establishing the possibility of extracting dioxin levels from adipose tissue and/or blood samples. Upon request, I can furnish the many studies which I have alluded to.

It has been our fundamental belief that the Department of Veterans Affairs, over the past 10 years, has enormous evidence to support the claims presented by veterans and their families. The patterns and symptoms of illnesses are very clear and closely related to the Vietnam veteran population at-large!

Veterans of the Vietnam War, Inc.

AGENT ORANGE PROGRAM DIRECTOR, MICHAEL LASHER
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Recently, we have been informed of directives to VA medical centers stipulating that their respective reporting of ICD information to the Agent Orange Registry is not to include illness associated with dioxin exposure.

Therefore, we respectfully request a full investigation of the Dept. of Veterans Affairs regarding their possible cover-up of vital evidence in their assembly of the Agent Orange Registry.

Gentlemen, the day of reckoning is upon us!

For those veterans who proudly served this nation, we only ask for what is fair and just. For the widows and children, we seek compassion and a means of survival! Grasp this opportunity to fully resolve the Agent Orange Issue!

Thank You Mr. Chairman

STATEMENT OF

NOEL C. WOOSLEY
AMVETS NATIONAL SERVICE DIRECTOR

Before the

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

Of the

COMMITTEE ON VETERANS AFFAIRS

UNITED STATES HOUSE OF REPRESENTATIVES

On

H.R. 3004

"VETERANS AGENT ORANGE EXPOSURE AND
VIETNAM SERVICE AND BENEFITS ACT OF 1989"

MAY 2, 1990

Mr. Chairman and Members of the Committee, AMVETS thanks you for the opportunity to express our views with respect to H.R. 3004, the "Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1989."

We wish to recognize Congressman Lane Evans who, along with his staff, has worked so hard to introduce legislation that would finally provide some measure of relief for those veterans suffering the effects of exposure to Agent Orange.

It is indeed unfortunate that the Department of Veterans Affairs (VA), Congress and the nation as a whole did not exhibit a proactive attitude in dealing with the entire Agent Orange issue over two decades ago. The posture taken then was to wait and see. Well, we have waited and now, over twenty years later, we are still unable to see any light at the end of the tunnel. We are unable to see because our vision has been obstructed by the very people who were charged with finding the answers -- the scientific community. Their findings range from one end of the spectrum to the other, with the most common being that "we just don't know."

Had we taken all of the monies spent on research and made those funds available for direct veteran services, I dare say we could have compensated and medically treated every Vietnam veteran who claimed a health-related problem due to Agent Orange exposure. This is not to say that we support the granting of service-connection without sufficient supporting evidence of a causal relationship. What we are asking is, When do we stop spending millions of dollars on research and address the needs of the veterans who are suffering? If we had provided proper medical services twenty years ago, it is very possible that today we would have the answers we so desperately seek. How many more studies are needed to further confuse the issue? How many more veterans will die believing their country turned its back to them?

The fact which can no longer be ignored is that exposure to Agent Orange and subsequent health problems is PERCEIVED as real and the scientific community has been unable to dispel that perception. The inability of researchers to adequately rule out various health-related causal factors based on exposure to Agent Orange has only served to re-enforce this perception.

AMVETS is aware that the debate is far from over and that the controversy will, in all likelihood go on another twenty years. However, we are also aware that the nation must come to grips with this issue now and start owning up to its responsibility "to care for him who shall have borne the battle..."

We feel, Mr. Chairman, that H.R. 3004 is a step toward taking responsibility for providing some relief to veterans and their families, but in no way can this legislation be viewed as a panacea with respect to the overall issue of AGENT ORANGE and its long-term affects.

H.R. 3004

Section 3. Presumption of Service-Connection for Chloracne. AMVETS supports.

Section 4. Presumption Relating to Certain other Diseases. AMVETS supports.

Section 5. While we are somewhat skeptical about yet another research project, the idea of an independent review of the total sum of data already available may prove very useful. Therefore, we support it.

Section 6. AMVETS supports the initiatives herein; however, we feel that they should be expanded to include a recall of those

veterans currently on record in DVA's Agent Orange Registry who wish to be re-examined. The re-examinations of these veterans some ten years later could provide useful data.

Section 7. We support the idea of establishing and maintaining a tissue and blood storage system and envision many and varied uses of same.

Section 8. In hopes that a "Scientific Research Feasibility Studies Program" would better serve the veterans and the taxpayer, we support Section 8.

Section 9. The need for our veterans to be informed about issues relating to Agent Orange is paramount if we ever hope to achieve an acceptable reconciliation. We, therefore, support it.

Section 10. We have no qualms with this section.

Section 11. AMVETS enthusiastically supports this section, but questions the still unmet need for outpatient care. We feel it is essential that these veterans be provided mandated outpatient care.

Section 12. Here, again, we have no qualms with this section.

This concludes my statement, Mr. Chairman, and I have appended two resolutions passed by our 45th National Convention delegates for the committee's review.

RESOLUTION NO: 56

SUBJECT: AGENT ORANGE AND ITS RESIDUALS

WHEREAS the Department of Veterans Affairs (DVA) had announced on May 11, 1989 it would not appeal the Federal Court Ruling on U.S. District Court Judge Thelton E. Henderson of San Francisco, California which stated, the VA had "imposed an impermissibly demanding test" for determining whether an ailment could be linked to dioxin, and the government imposed too strict a standard of proof on veterans claiming an injury from the defoliant Agent Orange; and

WHEREAS the Secretary of Veterans Affairs, Edward Derwinski, has in fact agreed with the decision of the District Court, and has stated the DVA will proceed with regulations for handling Agent Orange claims, and the final rules set by October 1989; and thus an appeal would not be in the best interest of the DVA as per the admission of Derwinski on Thursday, May 11, 1989; and

WHEREAS the PL 98-542, which was passed by both House and Senate and signed by then, President Reagan, which included stipulations to consider not only Chloracne, but, Porphyria Cutanea Tarda as found in Section 9 of that law; but, also to include, in the meaning of Soft Tissue Sarcoma which was included in Section 2 (5) which were found to be associated with certain levels of dioxins as found in certain herbicides; and

WHEREAS the veterans exposed to herbicides commonly referred to as Agent Orange be given the benefit of doubt as prescribed by Title 38 U.S.C. and awarded benefits as long as the DVA cannot prove the conditions of the veteran were not contracted by other than the exposure to the defoliant Agent Orange, whether a person who handled the substance in shipping, loading, or unloading, or application of herbicides in question or being exposed on the ground by direct spray or by consumption of potable water which had been exposed to the herbicides; now therefore,

BE IT RESOLVED that AMVETS support the decision made by the District Court and the veterans who have fallen victim to the residuals of exposure to the defoliant Agent Orange be given the same consideration for the many dioxin related conditions as in other claims; and

BE IT FURTHER RESOLVED that AMVETS support without question or doubt, the issue of Dioxin poisoning of America's veterans by the herbicide known as Agent Orange; and the AMVETS support a speedy relief to those American veterans who suffer from the residuals of such exposure.

RESOLUTION NO: 72

SUBJECT: HERBICIDE EXPOSURE

WHEREAS herbicides, the most common known as "Agent Orange", were utilized in great quantities in Vietnam; and

WHEREAS many Vietnam veterans were exposed in varying degrees to these toxic defoliants continue to suffer conditions of unknown causes; and

WHEREAS approximately 250,000 Vietnam veterans concerned over their exposure to herbicides have been entered on the Department of Veterans Affairs' Agent Orange Registry; and

WHEREAS although the Centers for Disease Control, in studies mandated by Congress, were unable to establish a direct link between the dioxins in Agent Orange and physical disorders later experienced by certain veterans, the National Organization of AMVETS continues to support the premise that herbicide exposure may cause certain health defects; now therefore,

BE IT RESOLVED, by AMVETS, that we continue to endorse and support liberalizing criteria for allowing herbicide related claims, to include placing the burden of proof for the award of disability compensation on the U.S. Government rather than on the veteran; and

BE IT FURTHER RESOLVED that those veterans now carried on the DVA Agent Orange Registry should have the option to be examined by VA to measure dioxin levels to determine whether there are shared medical conditions among them.

TESTIMONY OF THE

JEWISH WAR VETERANS OF THE USA

TO THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

OF THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

PRESENTED BY

COLONEL HERB ROSENBLEETH, USA(RET)

NATIONAL LEGISLATIVE DIRECTOR

JEWISH WAR VETERANS OF THE USA

MAY 2, 1990

Mr. Chairman and Members of the Subcommittee on Compensation, Pension and Insurance of the House Veterans' Affairs Committee, I am Colonel Herb Rosenbleeth, US Army (Ret), the National Legislative Director of the Jewish War Veterans of the United States of America, a congressionally chartered veterans' service organization. On behalf of our membership, I thank you for the opportunity to appear today to testify before this distinguished committee on H.R. 3004 - The Veterans' Agent Orange Exposure and Vietnam Service Benefits Act.

Since it's founding in 1896, the Jewish War Veterans of the USA, the oldest active veterans' organization in the United States, has stood for a strong national defense and for just recognition and compensation for veterans. The Jewish War Veterans prides itself with being in the forefront among our nation's civic groups in supporting the well-earned rights of veterans, in promoting American democratic principles, and in vigorously opposing bigotry, anti-Semitism, and terrorism - here and abroad.

Mr. Chairman, JWV seeks justice for those who served in Vietnam and who were exposed to Agent Orange. JWV is not at all satisfied with the recent Centers for Disease Control (CDC) Selected Cancers Study. We find this study was based on erroneous conclusions.

On April 4th, CDC representatives appeared before the House Veterans' Affairs Committee and admitted that their report, released during the last week of March, "was not a study on Agent Orange and that a link between certain cancers and exposure cannot be ruled out."

Mr. Chairman, the CDC study shows that Vietnam veterans have an increased risk of non-Hodgkins lymphoma. The study even admits that the chance of contracting non-Hodgkins lymphoma cancer is 50 percent greater for those who served in Vietnam than for veterans who served elsewhere. JWV has repeatedly taken the position that VA disability benefits should be awarded to all Vietnam veterans who are diagnosed as having non-Hodgkins lymphoma.

The CDC study erred in relying on preliminary results of the "Ranch Hand" study being done by the Air Force. The "Ranch Hand" study contains an extremely small sample size and does not give adequate consideration to the fact that these airmen were well protected from exposure to Agent Orange.

The United States sprayed more than 12 million gallons of Agent Orange over a country which is smaller than the state of New Jersey. Agent Orange is a potent chemical, consisting of an equal mixture of 2,4,D and 2,4,5,T. The 5T formula has been banned since 1985 because it contains dioxin, a known carcinogen. The D formula, which is now under review, is a suspected dioxin carrier. JWV has continuously maintained that it is the responsibility of the U.S. government to determine the consequences of exposure to Agent Orange and to provide appropriate compensation.

JWV believes the government must determine the effects of dioxin exposure and then must adequately compensate those who have suffered disease or disability from such exposure.

On March 15th of this year, JWV National Commander Murray L. Rosen, testifying before a joint session of the Senate-House Veterans' Affairs Committee stated that:

> "JWV further supports proposed legislation which would require the Veterans Administration to:
>
> -- analyze data from the health records of veterans with disabilities related to harmful defoliants like Agent Orange;
> -- establish a tissue and blood bank to assist future research, and;
> -- investigate whether future scientific research on Vietnam service-related disabilities is feasible."

Further, National Commander Rosen commended Secretary of Veterans' Affairs Edward Derwinski for choosing to accept the decision of a judge in San Francisco that may result in DVA disability benefits to thousands of veterans who were exposed to Agent Orange.

JWV, therefore, fully supports the provisions of H.R. 3004, a bill calling for improvements in benefits and research associated with Agent Orange exposure. JWV commends Congressman Lane Evans and H. Martin Lancaster

for introducing H.R. 3004 and for their determination to settle the Agent Orange issue in a fair and equitable way.

Mr. Chairman, there are still many unanswered questions in the minds of Vietnam veterans and their families concerning exposure to Agent Orange. Although the Vietnam era ended almost 15 years ago, the government has not been able to provide clear information on this issue. On behalf of JWV I ask each of you to support H.R. 3004 so that Vietnam veterans will receive the recognition, treatment and disability payments they deserve.

Thank you for the opportunity to appear today before this committee to express the views of the Jewish War Veterans of the USA. I will be glad to answer any questions you may have.

STATEMENT OF JAMES R. PELUSO,
DEPUTY DIRECTOR FOR PROGRAM DEVELOPMENT
NEW YORK STATE DIVISION OF VETERANS' AFFAIRS
BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
HOUSE OF REPRESENTATIVES
MAY 2, 1990

Mr. Chairman and Members of the Subcommittee:

I am James R. Peluso, Deputy Director for Program Development at the New York State Division of Veterans' Affairs. We thank you for the opportunity to provide our views on behalf of New York State's Vietnam Era veterans concerning the proposed Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1989 (H.R. 3004).

We also want to commend you for taking the time and effort to consider this critical bill.

The New York State Division of Veterans' Affairs was created 45 years ago to serve the State's veterans community, which now numbers 1.8 million -- the second largest contingent of veterans in the nation.

This includes almost 440,000 Vietnam Era veterans -- 131,000 of whom saw active duty in Southeast Asia, These are men and women who proudly and bravely served their country.

Many, however, returned home with special problems and needs.

Governor Mario Cuomo has recognized the importance to the State's veterans community of dealing with the after effects of exposure to Agent Orange. At the Governor's direction and with the cooperation of the State Legislature, the New York State Division of Veterans' Affairs has for the past two years sponsored an Agent Orange Outreach Program. We offer up-to-date scientific and health information and referral services to Vietnam veterans, their families and survivors, health professionals, veteran organizations and Agent Orange activists.

Today, no greater concern faces Vietnam veterans and their families than the controversial problem of Agent Orange -- the deadly herbicide that proved a double-edged sword. In combat it saved lives by clearing the dense jungle and depriving the enemy of cover and food. Exposure to the chemical, however, has been linked to a series of long-term, health threatening maladies for veterans and their children.

We should remind ourselves that while Agent Orange is the most publicized herbicide that was used in Southeast Asia, several other herbicides and pesticides were used before, in conjunction with, and after it.

Most of them are also toxic to humans and either suspected or proven carcinogens and teratogens. They include: about a million gallons of Agent Blue; almost 6 million gallons of Agent White; large amounts of Agents Pink and Purple, which contained higher levels of Dioxin than Agent Orange; Chlordane; DDT; Lindane; Malathion; and others.

Many scientists agree that these chemicals have created an epidemiologist's nightmare.

They say it will be several years, if ever, before they will be able to determine which health related problems are attributable to what tactical chemical or combination of factors.

The Agent Orange issue is not going to fade away or be forgotten. It is a health concern that has generated untold confusion and fear during the past decade -- confusion fueled by conflicting scientific findings that have only served to anger, dismay and bewilder Vietnam veterans, their families and survivors.

How can the Vietnam veteran be expected to understand the enigma of Agent Orange and its long-term effects on human biology when, after years of extensive and costly research, the health and scientific community remains polarized? While one well-documented study implicates Agent Orange as the cause of this

cancer or that disease, another finding, equally researched, refutes it.

But, now it's been argued by some activists that several key studies that have been the basis for the claim that dioxin is harmless, may be deliberate misrepresentations. The original findings of the Ranch Hand Study were reanalyzed and showed that Ranch Hand personnel have manifested higher rates of medical after effects than were first thought.

Further, Vietnam veterans are amazed by the VA's new rules for determining which studies are acceptable in its determination of which Agent Orange related conditions can be reasonably linked to service in Southeast Asia. The new rules allow the VA's panel to disregard many important findings of studies that are otherwise acceptable to the Environmental Protection Agency and other legitimate agencies and organizations, such as studies of industrial accidents, vocational exposure and animal studies. This information which could finally present some valid conclusions is not being added into the equation. The VA's new rules also allow studies with negative findings to counterbalance studies with positive findings, even though the accepted scientific practice is that three positive findings constitutes reason for action regardless of the number of negative findings.

Secretary of Veterans Affairs Edward J. Derwinski must be commended for his bold shift from the VA's past negative policies on Agent Orange, and for granting presumptive service-connection for non-Hodgkin's lymphoma. He said that his decision was not based on science but was a policy decision.

We agree. Intelligent public policy need not wait for perfect science. Decisions can be made now to help veterans and their families who suffer the after effects of Agent Orange exposure. They deserve justice now.

Veterans who are sick, those who have birth-defected children or those who are survivors of a veteran who succumbed to some strange disease are the most concerned. They express feelings of helplessness and fear, and think of themselves correctly as forgotten and betrayed.

Congress must act now to provide deserved service-connected disability compensation to Vietnam veterans and their families, if they are to have it in any meaningful time.

Those veterans with existing health problems and those who are anxious and fearful believe the federal government is not in tune with their plight.

Those who were exposed but are not apparently affected are anxious about the fate of their health and the health of their children. They want to know the facts about the effects of exposure to herbicides in Vietnam. They need health care screening and genetic counseling.

Those Vietnam veterans who are sick and disabled want appropriate and courteous treatment for their conditions and want service-connected compensation to protect their economic and physical welfare and well-being and that of their families. The families of Vietnam veterans with birth-defected children want treatment for those conditions and compensation for the resultant disabilities. They want information and answers to their questions about whether Agent Orange will harm them, their wives, their children and their children's children.

Vietnam veterans want to regain the respect they believe they have been denied for expressing their concern over an issue that, for many years, the VA and part of the medical-scientific community have alleged is non-existent.

Many members of the Vietnam veteran community are outraged at the inadequacy of medical research, thus far. They contend government researchers are dragging their feet in developing meaningful studies, mismanaging the ones that exist or manipulating results. Testimony at a recent Congressional hearing has substantiated their contention. Many Vietnam veterans claim the federal government has demonstrated a lack of understanding and action by waiting while scientists quibble over the merits of the numerous scientific studies done so far.

Other Vietnam veterans believe the issue has been studied to

death. They contend the federal government has continuously misinterpreted, downplayed or discounted what veterans see to be meaningful findings by independent researchers -- even the VA's own findings released in the Fall of 1988 that linked certain cancers in Marines to service in a heavily defoliated area.

Some have begun lobbying their state and local governments to begin local, independent research because they don't trust the findings of the federal government.

As a consequence of the desire of Vietnam veterans to get answers, they have turned to alternative sources. It has created a situation ripe for misinformation. Out of this scenario has evolved the belief by some activists that the VA is involved in a major coverup.

In New York State, our Agent Orange Outreach Program has been effective in delivering accurate information. Vietnam veterans in New York and across the nation have repeatedly commended the program as a reliable and willing source of factual and timely information about Agent Orange.

But Vietnam veterans should not have to rely on programs like ours for publicizing research findings and other issues surrounding Agent Orange. The federal government should bear the responsibility for the orderly, meaningful and timely dissemination of information.

While the VA, other federal agencies and the Congress have struggled with the issue, Vietnam veterans continue to believe that little has been resolved.

They can not find conclusive answers to their questions about what the health effects of exposure are and whether or not they were heavily enough exposed to be concerned. Those who are disabled go without service-connected compensation. Only a handful of veterans have been acknowledged to be disabled by exposure to the herbicide while on duty and granted service-connected compensation.

In spite of the VA's efforts, many Vietnam veterans feel the VA has been remiss in the area of outreach. Veterans believe that the VA does little in the way of providing the facts, or that the information the VA does disseminate is geared toward making the issue go away.

Little of the information that makes its way out to veterans is accepted. It is viewed as confusing medical jargon that is one-sided and generally seen as a complete contradiction to the findings of independent researchers.

What is needed first of all is an acknowledgement that the government has been wrong about Agent Orange.

H.R. 3004 would provide some important first steps toward an appropriate resolution of this issue.

The VA should grant presumptive service-connected disability payments to Vietnam veterans who suffer from chloracne and diseases reasonably linked to exposure to certain herbicides and pesticides while on duty in Southeast Asia, such as soft-tissue sarcoma, melanoma, basal cell carcinoma, lung cancer and others.

The VA should make much more effective use of the information contained in the Agent Orange Registry of veterans who have been examined or treated for disabilities related to exposure to tactical chemicals or to service in Vietnam.

The VA should establish a tissue archiving system to facilitate future research on the effects of veterans exposure to dioxin, and other toxic agents used in support of the United States' military operations in Vietnam.

The VA should establish an ongoing program to provide for the conduct of studies of the feasibility of additional research on the health hazards from exposure to the tactical chemicals used in Southeast Asia.

The VA should increase the distribution of up-to-date information about exposure. For example, which conditions are reasonably linked to herbicide exposure, and which military units during what period of time should be considered as having had a significant exposure to herbicides.

The VA has a responsibility to continue to provide Vietnam veterans with appropriate, prompt and courteous health care from

a VA medical center or other source.

Vietnam veterans should be able to get treatment for their children with birth-defects that are reasonably linked to herbicide exposure in the parents, such, as cleft lip or palate, spinal bifida and anencephalus. Appropriate genetic counseling should be available. Provisions should be made for the long-term care of birth-defected children.

There are several successful outreach programs to help Vietnam veterans deal with their concerns about Agent Orange. The VA should use them as models and partners for improving its delivery of services.

One example of an aggressive Agent Orange Outreach Program is that conducted by the New York State Division of Veterans' Affairs which is meeting the informational and referral needs of Vietnam veterans and their families.

Through the use of a toll-free telephone, an outreach newsletter, informational speeches, and information tables at public functions, we have been able to help thousands of Vietnam veterans who had previously been confused or totally ignorant of what was happening.

Also, in the past, Division personnel successfully blitzed the media and the veterans' community statewide to ensure that every Vietnam veteran or survivor was aware of their eligibility for tort compensation from the settlement; and that every not-for-profit agency knew of the availability of grant money from the Agent Orange Product Liability Litigation settlement.

As we said earlier, as a result, we have had requests for information and assistance from all over, including Louisiana, Puerto Rico, Arizona, Oregon, Texas, Maine, Colorado, the Virgin Islands and Canada.

Another example of a successful program is the unique cooperative agreement between the VA and the Rockland County Health Department in downstate New York. Rockland County's Health Department conducts Agent Orange examinations, using VA protocol, and submits the results to the VA for addition to the Agent Orange Registry. This model has been heralded nationwide as a significant achievement in meeting the needs of Vietnam veterans. Perhaps the most important result of the test is the relief from stress it offers to veterans concerned about the effects of Agent Orange exposure when they can be told, "There's nothing wrong with you."

New York is not the only state to recognize the gap between VA services and the needs of Vietnam veterans and their families and stepped into the realm of federal responsibility on this matter. New Jersey and Massachusetts have responded by conducting outreach and funding independent research projects. Maine, Michigan, Indiana, Pennsylvania, Texas and other states have had or now run outreach programs, research projects, or both.

The Ranch Hand Study has the potential to provide insight on the health effects of exposure to dioxin contaminated herbicides, providing that the appropriate changes included in H.R. 3004 are incorporated.

As has been indicated in our testimony, the Agent Orange issue is still a primary concern for many Vietnam veterans, their families, the professionals who help them and, as a result, for all Americans.

Their specific concerns have been spelled out in detail. Their needs have also been plainly stated. This issue is not going to go away. America and her veterans and their families need the United States Congress and the Department of Veterans' Affairs to act now.

Mr. Chairman and members of the subcommittee, that concludes our statement.

THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

The Honorable G. V. (Sonny) Montgomery
Chairman, Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

Enclosed please find the responses to questions submitted by Representative Bob McEwen following the Subcommittee on Compensation, Pension, and Insurance's May 2, 1990, hearing on H.R. 3004, Veterans Agent Orange Exposure and Vietnam Service Benefits Act of 1989. A copy of the responses has been provided to Representative McEwen.

Sincerely yours,

Edward J. Derwinski

Enclosure
EJD/flc

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSE

Representative Bob Stump

Question 1: To what extent is the type of dioxin contained in agent orange found in the bodies of people who live in the industrialized countries of the world?

Response: The type of dioxin contained in Agent Orange (2,3,7,8-TCDD is also found in the bodies of people who live in the industrialized countries of the world. A number of polychlorinated dibenzo-p-dioxins (PCDDs) and chlorinated dibenzofurans (PCDFs) were detected in human adipose tissue at levels from approximately 7 ppt (parts per trillion) for 2,3,7,8-TCDD to approximately 1000 ppt for octachlorodibenzo-p-dioxin (OCDD). These PCDDs and PCDFs can originate from a number of sources, such as incineration of municipal waste and wood products and the manufacturing and disposal of pesticides, wood preservatives, and polychlorinated biphenyls (PCBs). The following are reported levels of 2,3,7,8-TCDD in human adipose tissue for individuals with no known exposure to 2,3,7,8-TCDD:

Source	Sample Size	Mean (ppt)	Range
Adipose tissue, surgical patients in Missouri	128	7	ND*, 1.4-20.2
Adipose tissue, Georgia and Utah	35	7.1	2.7-19
Adipose tissue, sudden deaths in St. Louis	35	7.2	2.1-20.5
Canadian adults autopsy, adipose tissue	25	6.4	ND, 2-13
Adipose tissue from hospital patients, Sweden	31	3.0	0-9
Adipose tissue, EPA composite samples	46	5.0	ND-10
Adipose tissue, Southern Japan	6	6.6	ND-9.7

*ND: not detectable.

Question 2: Does the Department have any facts on which to base a significant statistical association between exposure to dioxin and soft tissue sarcoma?

Response: On May 17, 1990, the Veterans Advisory Committee on Environmental Hazards, following its review of a significant body of dioxin-related research, concluded that there is "at least as likely as not" a significant statistical association between exposure to herbicides containing dioxin and STS

2.

Representative Bob McEwen

(soft tissue sarcomas). The Committee's decision was made following its assessment of often conflicting scientific evidence, some of which supported such an association and some of which did not. Studies supporting such an association included, among others, Swedish studies with positive findings relative to the development of STS following exposure to herbicides, some of which contained dioxin. The Secretary has concurred with the Committee's assessment.

Question 3: What is your opinion of the information contained in the literature review of the agent orange scientific task force which was published yesterday?

Response: The Veterans' Advisory Committee on Environmental Hazards considered the literature review recently released by the Agent Orange Scientific Task Force and concluded that it does not present any new information relative to the use and/or effects of herbicides and their associated dioxin contaminants. It is the Advisory Committee's opinion that the information contained in the review was not a balanced presentation but rather was heavily weighed in favor of an association between exposure and certain illnesses. Research or literature in opposition to this theory was noticeably absent or ignored in the discussion. Evidence in favor of an association was not critically assessed. The Committee concluded, therefore, the review cannot be viewed as a contribution to the relevant information or as an addition to the body of scientific knowledge on this issue.

Question 4: Could you give us a brief description of the changes in the regulations governing claims for exposure to agent orange as as result of the court order to the VA to rewrite them, and what effect are the new regulations having on claims adjudication?

Response: The standard by which the scientific evidence had been judged was that of cause and effect. The court in Nehmer v. Turnage held that to be too strict a standard and was not in keeping with the Congress' intent in enacting Pub. Law 98-542 that the Department employ a standard of a significant statistical association which the court described as being a less strict standard than cause and effect. Under the new regulation governing the evaluation of studies relating to the health effects of dioxin exposure, VA adopted the standard articulated by the court. As a general matter, the rule provides that a significant statistical association shall be deemed to exist when the relative weight of valid positive and valid negative studies permit the conclusion that it is at least as likely as not the purported relationship between exposure to a herbicide containing dioxin and a specific adverse health effect exists.

Question 5: Does the Department's Advisory Committee on Environmental Hazards know approximately what the amount of dioxin was in the herbicides that were used in Vietnam.

Response: The Advisory Committee has been provided materials which does contain that information.

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U.S. House of Representatives

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September 14, 1990

Dr. Frank Press, Ph.D., President
National Academy of Sciences
2101 Constitution Avenue
Washington, D. C. 20418

Dear Dr. Press:

As Chairman of the Veterans' Affairs Subcommittee on Compensation, Pension and Insurance I request that the National Academy of Sciences examine the findings of the Department of Veterans Affairs Advisory Committee on Environmental Hazards with regard to non-Hodgkin's Lymphoma and soft-tissue sarcomas. Enclosed are copies of the approved minutes and transcripts of Advisory Committee meetings which occurred on November 2-3, 1989 and May 16-17, 1990.

In particular, I would appreciate your evaluation of the scientific methods and criteria used by the Advisory Committee in its review of pertinent evidence regarding these diseases as well as the validity of its analyses and conclusions.

Sincerely,

DOUGLAS APPLEGATE
Chairman
Subcommittee on Compensation,
Pension and Insurance

DA:jr

Enclosures

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November 29, 1990

Dr. Frank Press
President
National Academy of Sciences
2101 Constitution Avenue, N.W.
Washington, D. C. 20418

Dear Dr. Press:

On September 14 of this year I requested the opinion and views of the Academy with respect to scientific methods and criteria used by the Veterans Affairs Advisory Committee on Environmental Hazards in its review of pertinent evidence regarding non-Hodgkin's Lymphoma and soft-tissue sarcomas.

I would appreciate it if you would let me know whether you intend to directly respond to my specific request and when we can expect such a response.

If you have any questions regarding this matter please contact Mr. John Brizzi of the Subcommittee staff on (202) 225-3569.

Sincerely,

DOUGLAS APPLEGATE
Chairman
Subcommittee on Compensation,
Pension and Insurance

DA:jr

NATIONAL ACADEMY OF SCIENCES

2101 CONSTITUTION AVENUE, NW WASHINGTON, D.C. 20418

OFFICE OF THE PRESIDENT

December 18, 1990

The Honorable Douglas Applegate
Chairman
Subcommittee on Compensation, Pension and Insurance
Committee on Veterans Affairs
337 Cannon House Office Building
Washington, DC 20515

Dear Mr. Chairman:

In response to your letter of November 29, I regret to say that the National Academy of Sciences cannot review the findings of the Department of Veterans Affairs' Advisory Committee on Environmental Hazards on non-Hodgkin's lymphoma and soft-tissue sarcomas without funding for such a study.

The Academy generally provides scientific advice through expert committees of the National Research Council (NRC) or the Institute of Medicine (IOM). These committees are made of members of the Academy and the IOM and others, chosen to achieve balance and objectivity, who serve without compensation. Funding for staff, meeting and travel expenses, and other costs, however, must be covered by the government or private sources. At this time, we have no such support to assemble a panel to undertake the effort you describe.

As you know, an IOM committee did advise the Centers for Disease Control on the Selected Cancers Studies (one of the studies discussed at the VA advisory committee's meeting), and we provided testimony on our conclusions in April 1990. We understand that legislation under consideration would call on the Academy to review the scientific evidence about the health effects of Vietnam veterans' exposure to Agent Orange. If this legislation is enacted and funding becomes available, we will make every effort to provide a complete and thorough scientific review of the findings you mention and other relevant evidence.

Yours sincerely,

Frank Press

Frank Press
President

cc: Sam Thier
Michael Stoto

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September 14, 1990

Dr. John H. Gibbons, Ph.D., Director
Office of Technology Assessment
600 Pennsylvania Avenue, S.E.
Washington, D. C. 20510-8025

Dear Dr. Gibbons:

As Chairman of the Veterans' Affairs Subcommittee on Compensation, Pension and Insurance I request that the Office of Technology Assessment examine the findings of the Department of Veterans Affairs Advisory Committee on Environmental Hazards with regard to non-Hodgkin's Lymphoma and soft-tissue sarcomas. Enclosed are copies of the approved minutes and transcripts of Advisory Committee meetings which occurred on November 2-3, 1989 and May 16-17, 1990.

In particular, I would appreciate your evaluation of the scientific methods and criteria used by the Advisory Committee in its review of pertinent evidence regarding these diseases as well as the validity of its analyses and conclusions.

Sincerely,

DOUGLAS APPLEGATE
Chairman
Subcommittee on Compensation,
Pension and Insurance

DA:jr

Enclosures

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Congress of the United States
OFFICE OF TECHNOLOGY ASSESSMENT
WASHINGTON, DC 20510-8025

JOHN H. GIBBONS
DIRECTOR

HEALTH

September 25, 1990

The Honorable Douglas Applegate
Chairman
Subcommittee on Compensation, Pension and
Insurance
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing in response to your letter of September 14, concerning the deliberations of the Department of Veterans Affairs Advisory Committee on Environmental Hazards. Senator Cranston recently asked us to review the same findings of that Committee, on non-Hodgkin's lymphoma and soft-tissue sarcoma. I enclose the memorandum that we sent Senator Cranston, which I believe is responsive to the questions you asked, as well. Our findings are summarized below.

As you know, at a meeting in November 1989, the Advisory Committee found no "statistical association," as defined by regulation, of NHL with exposure to dioxin-containing herbicides. At a meeting in May 1990, the Committee did find a "statistical association" of STS with exposure. In contrast, OTA's review of the detailed minutes of the meetings, supported by our prior review of many of the relevant studies, does not reveal a substantial difference in the quality of the evidence for an association with NHL and with STS, or any specific pieces of information that would explain the Committee's differing decisions on NHL and STS. Of course, all of these judgments are, to some extent, subjective, since there is no specific procedure, particularly not a quantitative one, that can be used to weigh the evidence.

I hope you find this analysis helpful. Please contact me if I may be of further assistance, or have your staff contact Hellen Gelband or Clyde Behney in the OTA Health Program (at 8-6590).

Sincerely,

Sgd Jack Gibbons

John H. Gibbons

enclosure

OTA HEALTH PROGRAM

Staff Memorandum September 18, 1990

To: Jack Gibbons

From: Hellen Gelband, Health Program

Re: Review of VA Advisory Committee recommendations

As you requested, I have reviewed the recommendations made by the VA Advisory Committee on Environmental Hazards to the Secretary of Veterans Affairs concerning possible associations of non-Hodgkins lymphoma (NHL) and soft tissue sarcoma (STS) with exposure to Agent Orange. My review is based on reading the detailed minutes of the meetings at which the VA Advisory Committee formulated these recommendations, and my previous knowledge of the epidemiologic studies on which the recommendations are based.

The NHL Meeting

NHL was discussed at the November 2-3, 1989 meeting. At the beginning of the meeting, the Committee was instructed on the regulation that was to govern their assessment of the scientific literature. Mr. White from the Veterans Benefits Administration's Compensation and Pension Service explained that the Committee was to determine whether a "significant statistical association" existed between exposure to a herbicide containing dioxin and a given medical condition. Accoring to the regulation, a significant statistical association exists when the relative weight of valid positive and valid negative studies permits the conclusion that it is "at

least as likely as not" that the purported relationship between a particular type of exposure and a specific adverse health effect exists. The regulation also discusses criteria for judging whether a study is "valid."

The issue of validity, having to do with basic study design, the ways in which data are collected, potential biases, etc., is familiar to all experts in evaluating medical evidence. The Committee handled this professionally and competently, discussing each study put before them. They also had no problems in determining which studies were relevant to the question at hand. However, there is no specific procedure for considering the results of many different studies together and arriving at a conclusion as to where the weight of the evidence lies. The task becomes even more difficult when the endpoint is whether the association is "at least as likely as not" to exist, a term that does not lend itself to an objective definition. Any determination is bound to be somewhat subjective. The Committee discussed the issue of methods for arriving at a decision several times during both meetings, and considered various alternatives to assist in coming up with a final judgment, but did not adopt any formal procedure.

At the NHL meeting, the Committee reviewed 30 individual papers of relevance to the NHL question, characterizing 4 as valid and positive for an association of NHL; 12 as valid and negative; 10 as valid and inconclusive (mainly due to small sample sizes and consequent low power); and 4 as not valid because of severe defects in methodology or execution. Several others were dismissed as not germane to the subject. After the review of individual papers and the tally, the Committee further discussed the types of exposure in the studies, and how they might be differentiated, e.g., giving less weight to studies in which there was only the opportunity for exposure, and more to studies in which exposure was documented. They also discussed the "inconclusive" studies further to see if, as a group, they were more informative than they were separately.

In the end, the Committee members stated their own conclusions about the existence of a "statistical association," as they understood it to be defined by the regulation. They concluded that, while they could not rule out such an association, the evidence they reviewed did not support a conclusion that such an association existed.

The STS Meeting

The meeting to review studies relating to STS, held on May 16 and 17, was conducted similarly to the NHL meeting. Before the review of individual studies began, however, Admiral Zumwalt, attending his first meeting as a Committee member, made a statement criticizing the previous work of the Committee and praising the work of the "Agent Orange Scientific Task Force," a group supported by the American Legion, the Vietnam Veterans of American, and the National Veterans Legal Services Project. Once again, after discussion of the individual papers, the idea of formalizing the process for coming to a conclusion was discussed. Some strong sentiments were expressed in favor of exploring such a process, but in the end, that was not done.

The tally of studies was: 8 considered valid and positive; 10 considered valid and negative; 27 considered valid and inconclusive; and 5 considered not valid. There was considerable discussion concerning the fact that most of the positive evidence came from studies in Scandinavia, and that similar studies elsewhere showed no such association. Eventually, the members of the Committee were polled, and the consensus was that a "statistical association" existed.

Throughout the meeting, Admiral Zumwalt injected skepticism about studies done by researchers in industry and in the Federal Government. He cited testimony in court cases challenging some of the industrial studies, and claimed that the Federal Government exerted influence over the results of Government studies. This was contested by several members of the Committee. It is not clear to what extent Admiral Zumwalt's accusations influenced the deliberations of the Committee.

Contistency of the Recommendations

From reading the meeting minutes and from my knowledge of the studies discussed, I do not find a substantial difference in the quality of the evidence for an association with NHL and with STS. I cannot identify any specific pieces of information that would explain the Committee's differing decisions on NHL and STS, though the Scandinavian studies, which provide most of the positive findings, seemed to be influential. In my own subjective judgment, the evidence is quite similar, taking into account the levels of risk detected in the positive studies, the potential biases in the studies, the sources of exposure information, the types of exposure involved, and other factors.

The Committee has been given very difficult questions to answer. There may be no single right answer, because the standard of evidence required to decide that a "statistical association" exists, as defined by the regulation, cannot be defined precisely.

○